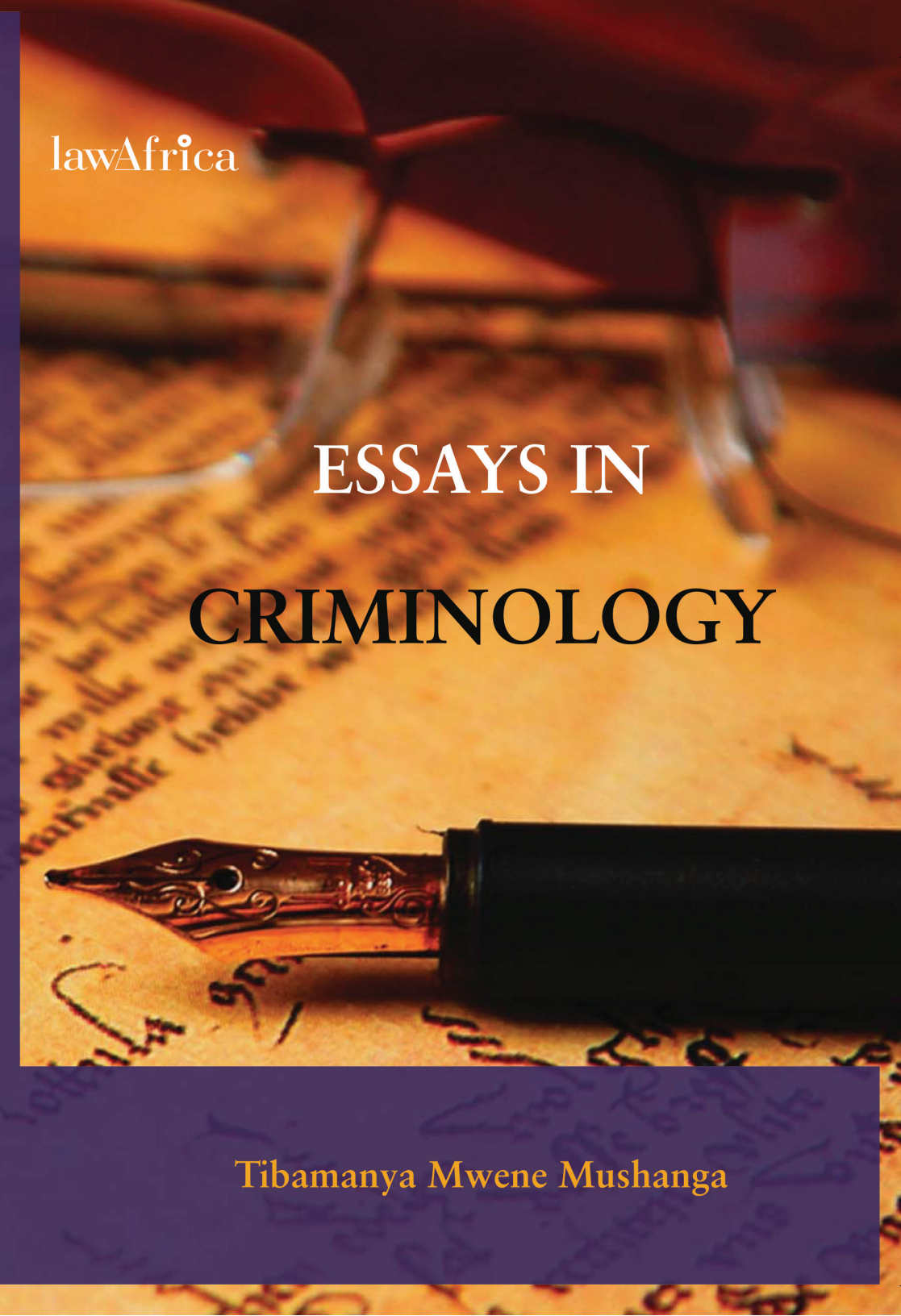


The background of the cover is a warm-toned photograph. In the upper half, a pair of glasses with thin frames and reddish-brown temples is out of focus, resting on a document. In the lower half, a fountain pen with a dark, ornate nib and a black barrel is in sharp focus, lying horizontally across the frame. The document beneath them is filled with handwritten text in a cursive script, which is also slightly blurred.

lawAfrica

ESSAYS IN CRIMINOLOGY

Tibamanya Mwene Mushanga

VISIT...

LANZAROTE
Caliente.COM

ESSAYS IN CRIMINOLOGY

ESSAYS IN CRIMINOLOGY

Mwene Mushanga

Ph.D. (Makerere)

lawAfrica

Published by

LawAfrica Publishing (U) Ltd
Office Suite No. 2
Plot 10A, Jinja Road (Opposite NEMA House)
P.O. Box 6198
Kampala, Uganda
Phone: +256 41 255808
Fax: +256 41 347743

LawAfrica Publishing (K) Ltd
Top Plaza, 3rd Floor
Kindaruma Road (Off Ngong Road)
P.O. Box 4260 - 00100 GPO
Nairobi, Kenya
Wireless: +254 20 2495067
Cell: +254 708 898 189
Fax: +254 20 2495067

LawAfrica Publishing (T) Ltd
Co-Architecture Building, 7th Floor
India/Makunganya Street
P.O. Box 38564
Dar-es-Salaam, Tanzania
Phone: +255 22 2120804/5
Fax: +255 22 2120811

Email: sales@lawafrica.com

Website: www.lawafrica.com

© Reprint 2013

© Tibamanya Mwene Mushanga 2011; LawAfrica

ISBN 9966-031-07-5

lawAfrica

Copyright subsists in this work. No part of this work may be reproduced or transmitted in any form or means, or stored in a retrieval system of any nature without the prior publisher's written permission. Any unauthorized reproduction of this work will constitute a copyright infringement and render the doer liable under both criminal and civil law.

Application for permission for use of copyright material including permission to reproduce extracts in other published works shall be made to the publishers. Full acknowledgement of the author, publisher and source must be given.

Whilst every effort has been made to ensure that the information published in this work is accurate, the author, the editors, publishers and printers take no responsibility for any loss or damage suffered by any person as a result of reliance upon the information contained herein.

TABLE OF CONTENTS

	<i>Page</i>
Dedication.....	vii
Foreword.....	ix
Chapter 1: Introduction.....	1
Chapter 2: Violent Crimes in Uganda.....	15
Chapter 3: Some aspects of Violence in Africa:The Social and the Political.....	27
Chapter 4: Women as Victims of Domestic Violence.....	47
Chapter 5: Children as Victims of Civil War in Uganda.....	57
Chapter 6: Citizens as Victims of State Terrorism:The Case of Uganda.....	67
Chapter 7: Violence in Rwanda and Burundi:A Response to Centuries of Racial Inequality and Social Dominance and Suggestions for Restoration of Peace.....	75
Chapter 8: Criminal Homicide in Western Uganda.....	91
Chapter 9: Criminal Homicide in East Africa.....	105
Chapter 10: Twenty Years of Violence in Uganda.....	117
Chapter 11: Alcoholism and its Control.....	147
Chapter 12: Punishment and Deterrence.....	161
Chapter 13: Capital Punishment:A Violation of Human Rights...	175
Chapter 14: Death Penalty in Africa.....	189
Chapter 15: Prevention of Crime.....	199
Chapter 16: Slavery and Colonial Exploitation of Africa as Crimes against Humanity:The Case for Reparation.....	221
Bibliography	235

DEDICATION

Yoweri k. Museveni and his followers for resisting murderers in
order to restore peace, security, development and hope to the
people of uganda

Mukatwiha Habi

FOREWORD

Crime in Africa is fast growing like African cities, African poverty, African indebtedness, African brain-drain and African dependence; everything in Africa appears to be growing very fast; population too has been fast growing except that it is being reduced by violence as we have witnessed in Rwanda, Burundi and Somalia and AIDS pandemic that is first spreading in Africa, claiming thousands of lives every year.

The increase in crime is not surprising. It is concomitant to abrupt social change that has been taking place in Africa since the days of colonialism. The social change has caused the weakening of social control, of abandonment of social and family values and has introduced foreign ideological values and has undermined cultural values and has also brought with it deviant and criminal sub-cultures. New forms of crime have been introduced as a result of coming into contact with other cultures such as drug uses, or the use of firearms in robbery and homicides; illegal money-changing and illicit importation and exportation of goods.

Many countries are facing crime as a social problem for which there is no ready answer. There is no ready solution to the crime problem because leaders have not bothered to pay attention to determine the causes of the increase in crime especially in property crimes. For example, there have been no research studies in this field of human activity for a long time. We all know that there is a problem, and yet leaders are not willing to fund researchers to investigate possible ways of dealing with the problem.

In many countries, imprisonment has been preferred as the best mode of dealing with criminals, while in others, offenders have been hanged or shot to death in public in the false belief that the on-lookers will learn and refrain from committing similar offences.

My interest over a period of many years has been to inform the public, especially in Uganda and Africa as a whole, about crime as a social problem. Accordingly, I have been giving lectures, speeches and writing papers in order to reach as many people as possible.

What is contained in this manuscript is a collection of essays and papers written out of my lecture notes on various aspects of crime over a long period of time. These papers are therefore not based on empirical research on crime in East Africa but general observation arising out of my experience.

The papers are intended to create some awareness of the problem with the hope that some interest can be generated so that research projects can be undertaken to study different aspects of crime especially the crimes that transcend national boundaries.

Ethnic violence that has over the last few years erupted in Rwanda, Burundi, Nigeria, Sudan, and to some extent in Kenya deserves special attention as it actually threatens to be repeated if proper definition of its cause is not done in good time.

Some of the papers have appeared in other publications, but that does not make them any less relevant because they contain the same message of addressing crime in Africa. Other papers were distributed in their original forms and have been edited for the purpose of inclusion in this collection.

I wish to thank all people who helped in various ways to have these essays typed especially Miss Regina Muwanga and Mr. Sebastian Kigonya both of the Ministry of Foreign Affairs while they were stationed at Ottawa. Finally, my wife Maama Muko, our children and grand-children deserve special thanks for their continued love and support especially when life seemed to be meaningless.

CHAPTER 1

INTRODUCTION*

In its 1988 work program, the United Nations Social Defence Research Institute, as it was then called, noted that:

“There is little comprehensive systematically collected knowledge and information on the history, main trends and state of the art of criminological theory and research in the developing countries and on the relationships between such theory and research, on the one hand, and criminal justice policy and practice in the developing world, on the other.” That “As in many other fields, information flow in the Criminological-Theory-and-Research field is presently limited to flows within the developed world to developing countries. It is well recognised that there should be a more complete global flow of information and knowledge especially in terms of a reciprocal flow from developing to developed countries and a “South-South” flow within the developing world.” (UNICRI (1988: Activity 3.8).

The Institute set out to tackle these objectives of collecting criminological information in respect of types of crimes, and all relevant information related to them as regards their trends, and extent, who the victims and perpetrators are, the social and official reactions to these acts of criminality.

The task the Institute set itself was not an easy one. Collecting criminological information from any African country is a formidable task that must not be underrated. Lack of accurate, reliable and comparable crime statistics is a universal characteristic of all countries in Africa South of the Sahara.

This scarcity of criminal statistics is compounded by developmental factors that have become the hallmark of Africa’s backwardness among which is included, inadequate or insufficient training of law enforcement officials whose duty it is to collect, compile, tabulate and publish criminal statistics. Then there is political instability and economic chaos together with

illiteracy, lack of communication, and in many cases, the breakdown of law and order bordering on the state of nature where the Rule of Law has remained an illusion.

Looking at the socio-economic conditions now prevailing in Africa South of the Sahara, a recent commentator has succinctly lamented that:

“Africa has a genius for extremes, for the beginning and the end. It seems simultaneously connected to some memory of Eden and to some foretaste of apocalypse. Nowhere is day more vivid or night darker. Nowhere are forests more luxuriant. Nowhere is there a continent more miserable. Africa – Sub-Sahara, at least – has begun to look like an immense illustration of chaos theory, ... Much of the continent has turned into a battle ground of contending dooms: AIDS and overpopulation, poverty, starvation, illiteracy, corruption, social breakdown, vanishing resources, overcrowded cities, drought, war and the homelessness of war’s refugees. Africa has become the basket case of the planet, the “Third World of the Third World”, a vast continent in free fall, a sort of neo-colonial breakdown.” (*Time Magazine: The Agony of Africa*, 1992, vol. 140, No. 10:26).

The political and economic situation in most African states makes it impossible for any government to be organised in such a way that it can gather criminal data. Consider the fighting that has been going on in Chad; in Angola between MPLA and UNITA; in Mozambique between RENAMO and FRELIMO; in Uganda between northern Nilotics and southern Bantu; in northern Nigeria between Moslems and Christians; in The Sudan between northern Arabs and southern Africans; in Somalia between rival clans after the overthrow of President Siad Barre; in Liberia between contending factions; in Sierra Leone also between opposed groups; in Ethiopia between Oromos, the Eritreans and others; in Rwanda between the minority Tutsi and the majority Bahutu; in Kenya between the Kalenjin and their neighbouring Luyia, Kikuyu and Luo; in Burundi between the ruling Tutsi elites and the Bahutu people; and in South Africa between the Blacks and Blacks, on the one hand, and Blacks and Whites on the other hand, making the future of that country difficult to predict with any degree of accuracy; and this goes on in almost all nations of Africa South of the Sahara.

Criminology as an intellectual discipline for academic serious study is in its infancy; very little attention is paid to this subject; in many countries courses in Criminology and Criminal Law are given in Universities mostly in departments of Sociology for the former and in the faculties of law for the latter. It is only in the Republic of South Africa that fully staffed Departments of Criminology can be found offering courses at under-graduate and graduate levels.

Research in the field of Criminology has been erratic to say the least. Individual scholars have emerged here and there on the continent but with lack of serious academic supervision, encouragement and support, not much has come out of their attempts at research and publication. This lack of official support has led to scarcity of literature in this field apart from newspaper reports of crimes in general.

In Africa, perhaps more so than in other parts of the world, crime is on the increase as can be testified by police records where these happen to be available. Crimes against property as a category by themselves have increased enormously, in many countries since independence in the 1960s. (Clinard and Abbott, 1973). Violent crimes have also gone up being committed by armed soldiers in the countries that have experienced political upheavals mixed with military conflicts as we have noted above. In many countries, political violence has been on such wide scale that victims of those acts run into millions as was the case in Uganda.

There are crimes that appear to increase as a result of abrupt social change; that is, as society changes from pre-literate hunting-gathering and rudimentary agriculture status to semi-sedentary, semi-literate and semi-urbanised and to developing status, new situations are created that give rise not only to increase in crime, but also to entirely new crimes. For example, forgery of bank cheques, and even bank robbery itself, may be viewed as new crimes of development as is currency counterfeiting and drug trafficking. The development process stimulates desire for wealth, and also makes more goods available for stealing such as motor vehicles, bicycles, video cameras, watches, T.V., and a host of other goods that are in great demand for the masses of the people most of whom are either under-employed

or not employed at all but who nevertheless have great desire for the goods that have good prices, and for which modern life demands but which the economy cannot provide.

There is a general tendency to explain the increase in crime rate in terms of development. That in some way the development process engenders conditions that favour the increase of crime.

Other thinkers have argued that crime is in fact the real force behind the development process as the following excerpt from Marx's works indicates:

A Philosopher produces ideas, a Poet verses, a parson sermons, a Professor text-books, etc. A Criminal produces Crime. But if the relationship between this latter branch of production and the whole productive activity of Society is examined a little more closely one is forced to abandon a number of prejudices.

The Criminal produces not only Crime but also Criminal Law; he produces the Professor who delivers Lectures on this Criminal Law, and even the inevitable textbook in which the Professor presents his Lectures as a commodity for sale in the Market. These results can increase in material wealth, quite apart from the pleasure which ... the author himself derives from the manuscript of this text-book.

Further, the Criminal produces the whole apparatus of the Police and Criminal justice, detectives, judges, executioners, juries (factories for all sorts of things such as padlocks, handcuffs, police and prison uniforms, badges,) etc., and all these different professions, which constitute so many categories of the Social division of Labour develop diverse abilities of the human spirit, create new needs and new ways of satisfying them. Torture itself has provided occasions for the most ingenious mechanical inventions, employing a host of honest workers in the production of the instruments.

The Criminal produces an impression now moral, now tragic and renders a "Service" by arousing the moral and aesthetic sentiments of the public. He produces not only text-books on the Criminal Law, the Criminal Law itself, and thus legislators, but also art, literature, novels and the tragic drama, as *Oedipus* and *Richard III*, as well as Mullner's *Schuld* and Schiller's *Rauber*, testify. The Criminal interrupts the monotony and security of bourgeois life. Thus he protects it from stagnation and brings forth that restless tension,

that mobility of spirit without which the stimulus of competition would itself become blunted. He therefore gives a new impulse to the productive forces. Crime takes off the Labour Market a portion of the excess population, diminishes competition among workers, and to a certain extent stops wages from falling below the minimum, while the war against Crime absorbs another part of the same population. The Criminal therefore appears as one of those natural “equilibrating forces” which establish just balance and open up a whole perspective of “useful” occupations. The influence of the Criminal upon the development of the productive forces can be shown in detail. Would the locksmith’s trade have attained its present perfection if there had been no thieves? Would the manufacture of banknotes have arrived at its present excellence if there had been no counterfeiters? Would the microscope have entered ordinary commercial life had there been no forgers? Is not the development of applied chemistry as much due to the adulteration of wares, and to the attempts to discover it, as to honest productive effort?

Crime, by its ceaseless development of new means of attacking property calls into existence new measures of defence, and its productive effects are as great as those of strikes in stimulating for invention of machines.

Leaving the sphere of private Crime, would there be a world market, would nations themselves exist, if there had not been national Crimes? Is not the free of evil also the free of knowledge, since the time of Adam? In his *Fables of the Bees* (1708) Maandeville has stated that “What we call Evil in this World, Moral as well as Natural, is the grad Principle that makes us sociable Creatures, this solid basis, the Life and Support of all Trades and Employment without exception: That there we must look for the true Original of all Arts and Sciences, and that the moment Evil ceases, the Society must be spoiled if not totally dissolved. (Marx, 1964:158-60).

Other crimes that are parasitic vis-a-vis the development process include prostitution. Prostitution, in the western culture is termed the “oldest” profession; but it is a relatively newcomer on the African criminological landscape at least in the sense of being a career. Prostitution has now become a major social problem in most African cities and especially so in the advent of the AIDS pandemic.

Drug addiction, and drug trafficking, as Professor Tolani Asuni has shown, is spreading, again, in major cities that have direct route connections with other major cities outside of Africa. (Asuni in Mushanga, 1992:117-125). And in this connection, it is important to note that involvement in drug trafficking, and even drug use and addictions may be closely related to the intensity of development activity taking place within a given country. So that where you find more economic activity in the development sector, there you also find more drug trafficking and drug addiction.

Illegal trade, contraband and smuggling are some of the outgrowth of criminal nature that accompany development and modernisation. Smuggling and illegal trade across international borders increase especially with the breakdown of law and order in one or two neighbouring countries. This too applies to currency exchange. There are people who have made fortune at the border of Uganda and Kenya, and Rwanda through illegal exchange of currency, taking advantage of the laxity of law enforcement or due to the breakdown of the rule of Law in the country; and also due to corruption.

Quick means of communication by fast cars, and telephones also facilitate the commission of certain types of crime especially those of an international nature, like, again, drug trafficking and the smuggling of currency notes.

There are many other indicators to show that there has been an increase in the volume of crime in Africa. One of such indicators is the mushrooming of private security agencies commonly known as “Securico” in many countries. These are privately recruited and maintained personnel that are detailed to keep security around some important persons, homes, businesses, and banks. In many countries, these “Securico” guards may be armed with firearms while others may be armed with clubs, spears, or bows and arrows. These private guards are very often recruited, and in some cases preferred to Police in the protection of homes and property.

Another indication of the increase of crime is the emergency of neighbourhood watch groups or the vigilantes. These are usually young male adults who are organised to patrol their villages at night

in order to keep out thieves and other delinquents from disturbing the peace in the villages. In some countries they have been known to reduce cattle theft and theft of food crops from the gardens at night. In one African country, these young men have been given one or two months of paramilitary training, and some have been armed to do their jobs more efficiently.

The present volume of *Criminology in Africa*, to me, is an eye-opener for the leaders of Africa. It is a beckon to the leaders to begin to take the study of Criminology more seriously, to give more support and encouragement to the scholars, researchers and law enforcement personnel to collect, compile and analyse criminological data in a more systematic manner in order to be of use to the policy makers in the field of criminal justice in order to protect human lives and property, and to promote the respect of human rights and the Rule of Law. (Newman and Anderson, 1989:40).

The countries of Europe and North America are constantly stepping up and upgrading their institutes of crime control and law enforcement in the way of training and data gathering, compilation, analysis and publication. Africa must emulate this practice if it has to avoid being engulfed in criminal syndicates that now characterise some countries around the world. Crime is a human behaviour, it can be reduced and controlled by human action. Legislation is an important tool in the fight against crime, but it must be based on facts and not on fiction; the rates and trends of crime and the characteristics of the offenders, victims, and situations in which crimes take place must be identified in order to give adequate guidance to lawmakers to formulate effective criminal policies and prevention programmes.

As far as I am aware, the African leaders through the Organisation of African Unity, have not concerned themselves with the problem of crime in Africa. This matter has generally been left to individual countries to deal with their crime problems. But all indications show that there is urgent need for combined effort in the field of criminological data collection; in crime prevention programmes, in the training of law enforcement personnel, in the academic training of criminological researchers, and in the publication of research

findings in order to share information throughout the entire sub-continent.

More and more serious crimes are being committed across international borders and that makes it imperative that national leaders co-ordinate their efforts in the fight against crime. There are now massive movements of large populations of people from one country to another and with them move their criminal habits. And as more countries open their borders for international communication and trade so will new crimes be introduced to countries that did not have them before. The response to these movements is co-ordination of efforts in training, research and the publication of findings in the fields of crime prevention and control.

Crime, especially in the developing countries, is a very costly business. Scarce resources that would go for construction work, or for education of street children, or for medicare is spent on efforts at controlling crime in way of hiring large armies of police, prison and other criminal justice system personnel. It is obvious that the higher the crime rate prevailing in a country, the higher the cost of processing the participants in crime as offenders as well as the victims; for the medical care of ten thousand victims of violence and processing of the ten thousand offenders through courts and prisons is not the same as processing one thousand victims and one thousand offenders. The more people involved in criminal situations, the higher the cost not only in terms of funds but also in human suffering.

It is therefore prudent to reduce crime rate in order to accelerate economic development because crime costs money and less crime will reduce expenditure thereby making funds available for more pressing economic activities.

Crime, just like large armies, has become very uneconomic in the sense of squandering meagre resources that could be put to better use in other areas of human need. If crime is uneconomic at the national level, it is even more so on the individual family level. Consider the number of destitute children who are orphaned when their parents get killed in violence and also the children who lack parental support because their parents are serving long or life

prison sentences, and these are numbered in thousands in any single nation. In countries where law and order broke down and gave way to inter-tribal, or inter-religious conflicts, the number of orphans, widows and old people who lack support runs into hundreds of thousands, and this, in some countries, continues to be the case.

PREVENTION OF CRIME

Crime is an enormous problem for every country in Africa just as it is for nearly all other countries in the world; and as such national leaders and their governments must be willing to commit not only state funds but their personal efforts in order to reduce the volume of crime.

On the international level, suggestion is made for cooperative effort by police departments to work together in combating crimes of an international nature such as drug trafficking, illegal trade, kidnapping, smuggling and exportation of human beings for the purpose of sexual exploitation in brothels, and also in commercial farming.

Proper control of ports and borders could be of great value in the reduction of international crime.

There is also greater need for the exchange of information on the part of the police and other law enforcement agencies. This is important in the way of disseminating knowledge in the field of law enforcement and in the maintenance of law and order.

The cooperative effort would also be extended in the field of training judges, lawyers, magistrates, police and probation personnel so as to give them a uniform perspective in the field of crime control. It is in this respect that the United Nations Crime Prevention and Treatment of Offenders Institute, now located in Kampala, Uganda, could be of immense value in the co-ordination of training programmes for different categories of officers at various levels of operation right from High Court judges to clerical officers within the judiciary system or in other service departments.

The role of well trained law enforcement personnel cannot be over-stated. The way the police, magistrates and judges handle the

members of the public is both positively and negatively affected by the way the officials are trained. Training also is crucial not only in the collection of criminological data, but also in the analyses and interpretation of these data, and in the implementation of crime prevention policies.

Presently a good number of countries in Africa have had to put up with inadequately trained personnel at levels of the criminal justice system which leads to unsystematic collection of data, delays in the processing of court cases, and as a result there is a lot of injustice being done to innocent persons and abuse of human rights.

The most important part of prevention of crime falls within the domain of national governments. The national leaders in Africa need to be convinced that crime is a serious social, economic and political problem which calls for urgent attention.

When leaders are fully convinced that crime constitutes a serious problem, then they should proceed to draw up a comprehensive crime prevention programme which should provide for: (Mushanga, 1992:190-201).

- (a) Universal and compulsory education for all for at least up to ten years of education in order to reduce illiteracy which reduces unemployability in a fast modernising society.
- (b) The reduction of unemployment among the youth.
- (c) The creation of employment opportunity through the expansion of the economy by establishing new industries and agricultural projects.
- (d) The eradication of poverty and all its offshoots of ignorance, disease, backwardness, tribalism, intolerance, and man's inhumanity to man.
- (e) The decentralisation of government offices, businesses, industries, educational facilities and supportive programmes.
- (f) The reduction of the rate of urbanisation and at the same time embark on rural development programmes such as the upgrading of rural roads, electrification and provision of decent housing, recreation and water supply.

- (g) Reduction of corruption especially among the top leaders and among the rank and file of the civil service by increasing salaries, provision of amenities, and attractive conditions of service; and awarding of deterrent sentences to convicted offenders.
- (h) Prompt investigation of crime, arrest, and prosecution of suspects by competent officials.
- (i) Short, sharp and shock prison sentences for the offenders. Short sentences make it possible for the offenders to get out of prison before the process of criminal hardening takes place within the prison setting. Short sentences make it possible for offenders to return home before their families begin to disintegrate due to lack of support by the main breadwinner; and imprisonment shocks convicts in the initial period of imprisonment.
- (j) More use of non-custodial penal sanctions such as fines, weekend prisons, community labour in lieu of imprisonment and probation.
- (k) The abolition of capital punishment for all crimes because it is cruel and unusual punishment which brutalises society, stigmatises relatives of the offenders and does not help in deterrence of crime. It should be substituted by a combination of imprisonment, fines and restitution to the victim's family.
- (l) The restoration and strengthening of family values through home improvements, social security, clearance of neighbourhood, control of family violence and alcoholism and the reinforcement of social control in the field of child socialisation and in making people responsible for the welfare and safety of their relatives and neighbours.

In the selection of topics for the volume as well as contributors consideration was given to the need of balancing topical issues in the field of criminological typologies, scholars, and practitioners. In this regard, traditional crimes such as homicide and corruption were included as well as new forms of criminality like drug trafficking and drug abuse as well as the impact of rural-urban migration which for all intents and purposes, must be considered as a recent dimension in the field of criminology in the African context.

Another attempt was made of balancing contributions by linguistic classification in terms of Anglophone and Francophone as well as by region. The ideal was to obtain equal contribution from all the three regions of East, Southern and West Africa but this proved to be impossible. Contact was established with scholars and practitioners in various countries notably The Sudan, Zaire, Gabon, Rwanda and Congo but few of the people contacted went on to make their contribution. In the same vein, there was deliberate effort to include female contribution; as an example, a female criminologist in Kenya was approached on several occasions and in spite of repeated assurances, she eventually was unable to make her contribution. Yet another effort that in the end proved fruitless was to have the contribution of the director and deputy director of UNAFRI in Kampala. Drs. Femi Odekunle and Eric Kibuuka were contacted but because of the heavy work they both were involved in, trying to start the African Institute, they were unable to make their contribution which is very much regretted.

In selecting contributors special effort was made in selecting the most experienced scholars, researchers, and practitioners in the field of criminology and the administration of criminal justice system. Nearly all the contributors are internationally renowned for their contributions in the field of African criminology as their contributions testify.

The last but by no means the least and most important item on the agenda for the Prevention of Crime in Africa, must be democracy. Democracy is not defined as freedom to arm and fight the government that one does not want irrespective of how it was constituted. Democracy must be defined as a system of government where the people have a say in the selection of the leaders, democracy also must mean that those who are not happy with the way things are done, must be listened to but without taking law into their own hands (and this will happen when those in power do not listen).

Democracy would ensure peaceful coexistence within a country and between countries. A lot of people have perished in Africa just because of undemocratic methods in which leaders come into government and in which they try to govern their countries.

Conflicts over who does what, where and when within the political system and also over the allocation of resources has led to the death of millions of people, and to the misery of even greater numbers of people in Africa in the last 20-30 years since independence of the majority of the African countries.

Democracy itself is a very delicate crop that needs the right soil, the correct atmosphere and the adequate rainfall in order to bear fruits of liberty, freedom, and plenty. The Africans must struggle to cultivate these conditions in order to reduce the amount of suffering of the African people.

From the time the Portuguese discovered Africa as a source of cheap labour way back in 1440 when the first batch of slaves were brought from West Africa and sold in Lagos, an ancient town in Portugal, (Rogers, 1961) Africa has never known peace and tranquility. It is estimated that 12 million people were transported from Africa during this period, (Everett, 1978:6) and this is said to be an underestimation. Some historians put the figure at between 2 and 10 million over a period of 450 years. The mass exodus of slaves that went on for four and a half centuries, had left the continent bare of its human resources, was soon replaced by colonialism. The period of colonialism was twice interrupted by wars in which Africans lost their lives in hundreds of thousands. Then soon after independence, the African people found themselves left alone to settle their own affairs. This was something for which they had not been prepared. The majority of the leaders were novices in the political field and soon plunged their countries into political chaos from which a good number have not managed to deliver themselves.

Africa, therefore, has been characterised by political violence for a very long time and it will require an enormous amount of political commitment to reduce violence in most of these countries.

Now the continent is gripped by a new wave of political demand for multiparty politics after a whole generation of one-party dictatorship in some countries and military dictatorship in others. The multiparty movements themselves are threatening a new wave of violence, and if not handled carefully may prove to be as destructive as the dictatorship they wish to replace.

CHAPTER 2

VIOLENT CRIMES IN UGANDA*

Crimes of violence have been of great concern not only for the government but also for the whole population not only in Uganda, but also in East Africa. The prevalence of violent crimes in Uganda itself constitutes what sociologists call a “Social Problem” and by a social problem is meant a prevailing situation which affects a significant part of a population as a source of uneasiness, worry, unhappiness and insecurity. (Eitzen and Zinn, 1994:5). Violent crimes of murder, assault and *kondo* are a great source of individual insecurity and the public has been calling for preventive measures.

We read in newspapers and hear on the radio of innocent lives being lost at the hands of violent robbers, old men and women living in rural and isolated houses having been strangled to death for a few shillings; shopkeepers have been speared, stoned and shot dead while defending their property; business executives, cashiers and pay-clerks have been waylaid and machine-gunned on their way from banks to pay their workers, men are shot, strangled, speared while on their way back home at night; dead bodies are found in drains, ditches and swamps tied in gunny sacks; others are found floating in rivers, etc. It is because of this that the public has been demanding that something must be done especially about *kondoism*. Many people feel that death from a robber’s rifle, machine gun, spear or panga to be so imminent that the public has resorted to lynching which is the shameful, illegal and retrogressive and totally meaningless spontaneous administration of mob justice on the streets. A great shame to our society; which, some of us hope, will not be allowed to go on. The inhuman treatment of violent offenders is not likely to introduce effective controls though it may appear to reduce crime quite temporarily. It is because of this great need to have something done, that I have been suggesting the establishment of a Crime Study Centre where problems of crimes, typologies of crimes, remedial and control studies could be carried out (Mushanga, 1989).

In 1969, according to the information received from Police Headquarters, the criminal homicide rate in Uganda was 20 persons per 100,000 population. In 1970, U.S.A. had a rate of criminal homicide of 7.8 per 100,000 of population; in 1960 England/Wales, had a rate of 0.6 per 100,000; Netherlands in the same year had a rate of 0.3 per 100,000. This means that an individual Uganda citizen stands a risk of being a victim of violence out of every 2,000 persons in a year; the American citizen stands the same risk out of nearly 16,000, and an English person is likely to be killed in one year out of every 36,000 people. The most alarming thing is that the rate is fast rising in Uganda while it is reported to be declining in U.S.A. and in England. The increase here in Uganda, cannot be explained in terms of improved training methods of police, but it is a real increase which should cause great concern to all of us.

For the years 1965-68, Karamoja ranked highest with a rate of 43.9 per 100,000; this may be explained in terms of the endemic cattle raids and counter raids there. Bugisu and Sebei had a rate of 36.2 per 100,000; and Kigezi, the district with the lowest criminal homicide rate had 5.4 per 100,000 per annum (Mushanga, 1970). After this brief outline, one would naturally like to ask, "What are the factors that give rise to these differences?" "Why are the people in, say, Busoga (15.4), have three times as high a rate as those in Kigezi?" The answer to these questions is not an easy one, because crime, like any other social behaviour is an outgrowth of many social forces. We have just cited the case of Karamoja with even a higher rate than that reported for Columbia (34.0, 1960). This is because of the endemic subculture of cattle raids which very often result in violent homicides. This means that what accounts for criminal homicide in one area is not necessarily the same explanation for other areas. The cultural factor in crime causation and deviant behaviour in general is clearly demonstrated by case studies of both homicides and suicides. The following cases are examples of cultural values in the genesis of violence towards oneself.

It is reported by the Fallers from Busoga in eastern Uganda that a young man stole chickens. He was arrested and taken to a chief. The father of the young thief went to the chief's house and tried unsuccessfully to bribe the chief. Seeing no other way to escape

from public disapproval, he hanged himself. In another case, a man hanged himself because he could not find the money to redeem his daughter from an unhappy marriage by repaying the bride-wealth. To the Basoga and other people who live the same way of life, these behaviours were sources of a great shame but if such a thing (the suicide) happened, say, among the Bakiga or Banyankore they would be shocked. The behaviour of the poor old man who took his life because of the great shame the son had brought to him and to his clan can only be explained in terms of cultural definition. Therefore, the motives, the circumstances and even the methods of perpetrating homicide and suicide are culturally determined in most cases. Thus for one to be able to explain certain criminal behaviour of a group of people, one must have a fair amount of knowledge of the culture of that group. This does not refer to criminal or deviant behaviour alone; but to nearly all what happens in the day-to-day behaviour. As an example, a certain economic project may be introduced into two or more cultural groups. The project may appear to fail in one or more cultures while it continues to succeed in others. Unless the cultural definitions are understood in their cultural context, the task will not be an easy one of explaining causation, and it will be more difficult to design a programme of remedial, control and prevention. The aggravated assault cases are also to be explained in the same way. In regard to aggravated assault, Bugisu/Sebei and Karamoja over a period of four years had an average of 197.8 and 186.4 respectively per 100,000 per annum; while Kigezi and Ankole had the rates of 53.5 and 38.7 per 100,000 per annum respectively; Kampala 480.8. The difference between criminal homicide and aggravated assault is dependent on several factors such as distance to hospital, availability of quick means of transport and general awareness of what is to be done in case of serious injury, etc: A knowledge of First Aid may significantly change these figures.

In studying criminal homicide, one of the important points to note is “who commits homicide?” i.e., what type of person he is, that is by age, sex, religion (if possible) and also who is likely to be a victim in terms of sex, age, religion, occupation, education and most important, the relationship between those who are involved in the

homicide drama as offender and victim; and of course, the role of alcohol must not be ignored.

My study in Western Uganda revealed that out of 569 offenders, 506 (88.75%) were males against only 63 (11.25%) females (Mushanga, 1970, *ibid*). This means that criminal homicide is predominantly a male monopoly in which females rarely take part. The fact that women very infrequently participate in violent crimes has been found to be universal. In a study of criminal homicide in Philadelphia, U.S.A., Professor Marvin E. Wolfgang found that out of 620 offenders only 109 were female (Wolfgang, 1956). But women, unfortunately, have a higher rate of being victims. Of the 501 cases in the Ugandan study, (including 21 victims whose sex was not indicated) there were 118 cases; compared with 139 out of 588 in Wolfgang's study.

The age of offender and that of the victim is an equally interesting point to note. On the average the killers tend to be younger than their victims. Men are extremely dangerous between the age of 20 and 29 and victims tend to be at least ten years older; people below 15 and those above 50 tend to be victims rather than offenders.

Regarding the question of relationship between offenders and their victims, one thing comes as a surprise. Most people have a great fear of strangers. But, with the exception of *kondos*, very few people get killed by people who do not know them. In the Kigezi sample, 50% of the criminal homicides that I have studied involved people who were closely related and were members of what I have called the 'domestic group'. That is cases involving son and father, husband and wife, brothers, etc. In other words a man is comparatively safer among people who do not know him if these are not *kondos*; but he remains a potential victim (or offender) when surrounded day after day by his kin groups and his chances of being an offender or victim increase with the presence of alcohol. There are other domestic and economic factors that arouse anger and dispute. These include women, debts, land and property rights resulting from inheritance at the death of a relative, usually the family head. Related people interact in numerous ways in which criminogenic situations arise as a result of face-to-face and day-to-day encounters. In most cases,

violence erupts after a very long time of misunderstandings, repeated quarrels and fights; homicide being the final phase of a long process. There are also homicides associated with the belief and practice of sorcery and witchcraft in many parts of Africa.

Motives for homicide are numerous but tend to differ in some ways from culture to culture. That is, if we listed all the motives for which people have killed others, say, in Jinja town for the last fifteen years (a thing that should be done periodically to see if there is any shift) we will find the list in some way different from another list of motives of another town such as Mbale or Kisumu, and also changes in motives would be noticed indicating changes in the sub-cultures, as time goes. Motives range from domestic altercation arising out of very minor disagreements, to those that are of sexual, witchcraft, robbery, extraction. In western Uganda a lot of criminal homicides are committed while drinking. In most cases either the victims, or the offenders, or both are found to have taken alcohol usually together. It is worthy of note to mention here that alcohol plays not only a prominent role in homicide but also influences many other situations; such as road accidents, rapes and attempted rapes, arson, suicides, homosexuality, corruption, embezzlement, inefficiency, religious and moral decay, mental abnormality, etc. In violent crimes, alcohol functions by releasing emotions and by lowering cortical controls over the manifestations of anger. It acts by suspending the superego functions, and leaving the individual with no self-restraints. Mental abnormality is one of the causes of a number of crimes. Mental abnormality, of course, is a very relative term; most people are more or less abnormal, but we are all agreed that a man who all of a sudden becomes violent and starts to attack his friends, or who wakes up at night and alleges to have been attacked by enemies and acting in self defence takes a panga and kills his wife and his small children is, by the same agreement, legally insane. In legal terms a person is insane if he commits a crime while at the time of committing the offence *either did not know what he was doing or if he knew what he was doing, did not know that it was wrong*; this is what lawyers call the M'Naghten Rules (Siegel, 1992:61).

The question of 'cause' or *aetiology* of crimes cannot fail to be of great interest. Why do people become criminals? Are they

born to be criminals, are they just spoiled, are they suffering from some hereditary mental conditions, or are they just bad people? All of these are very important points to be considered. What 'germ' causes crime, or what type of germs cause different types of crimes? This is where social pathology significantly differs from clinical (medical) pathology. In medical pathology, the pathologist rests when he discovers the germs and identifies them in his sample as the *neisseria* group, or *Brucellae salmonellae* or *viruses*. Once a germ is known, unless there are multiple diseases from which the patient is suffering, the diagnosis is straight-forward. Take a sample of nasal mucus or pus from a sore, treat it in the known manner and you discover *Mycobacterium Leprae*, you are most likely to affirm that the patient is suffering from *Leprosy*. But sociologists of deviant and criminal behaviour are not so fortunate as to be able to make a definite diagnosis by identifying the aetiological 'agents'. In most cases medical diseases are caused by the same germs. Malaria, we all know, is caused by malarial parasites. Coryza or the common cold (*senyiga*) is caused by a type of virus. But a social pathologist is at a great disadvantage because there are no 'single' causes of criminal behaviours. There is no single explanation of why a certain girl became a prostitute, or of why a certain man raped a certain girl, or of why a certain man killed his wife. In a seemingly straight-forward case such as a criminal homicide, there is usually more than one 'cause' and this makes it extremely difficult to identify.

Many sociologists, lawyers, anthropologists, psychologists and others have, over the last one hundred years or so tried to explain the 'causes' of crimes. There is no time or even a need to go through these different theories now. But one stands out as the most acceptable. Professor Marshall B. Clinard, the eminent American sociologist says that *Criminals and delinquents develop attitudes and definition of situations through group association in the same fashion as do non-delinquents*. This group experience involves not only the *family* but also the *play group*, the *school*, the *neighbourhood* (emirirano), *clubs*, the *church*, *marriage*, *occupation*, in fact, all life in its interaction and participation in the culture in which one is a member. (Clinard, 1968). Both criminality and non-criminality are natural in every human society and are outgrowths of processes of social definition.

All what this means is that criminal behaviour and non-criminal *behaviour is learnt*, or to put it differently, this means that criminal behaviour is *not inherited* and that a *person does not inherit* criminal behaviour. The learning of criminal behaviour takes place within intimate groups just listed above. The late Professor Sutherland said that “*A person becomes delinquent (criminal) because of an excess of definitions favourable to violation of law over definitions unfavourable to violation of law*. This is the principle of differential association”. (Sutherland, 1970:75). The theory does not say that *people become criminals because of association* with criminals but that people become criminals *because of an over-abundance of such associations* in comparison with anti-criminal and neutral patterns.

In another article I have attempted to list the most important factors that underlie the criminal system in this country (Mushanga, 1970).

The first is the Weberian Protestant Ethic. The ethic stresses individual effort and success in material things. Society itself is exerting tremendous pressure on individuals to ‘succeed’ in material things. And to do this, different people have adopted various methods: education, business, politics, farming, robbery with aggravation, embezzlement, corruption, bribery, nepotism, forgery, prostitution, illicit distillery of waragi, rent inflation, cheating and other numerous methods. And many do succeed in heaping riches in this way. Many people are determined to do anything in order to acquire wealth. The get rich mentality is becoming quite widespread.

Another factor is the breakdown of social solidarity of the African way of life without adequate replacement. Traditional norms have been abandoned. African traditions, customs, values, etc., are no longer binding; nobody anymore refrains from stealing because he fears witchcraft, and only very few will refrain from the temptation because of fear to lose their seats in heaven. In fact most people who are law-abiding do so because they think it is proper but not out of fear of the criminal law or of God’s ten commandments. If people were to be restrained from crime, the law would need to keep one policeman on every citizen including the police; and if we had to depend on general acceptance of Christian teaching, everyone would have to be a saint. Most people refrain from criminal activities

because they believe they are decent people and want to keep decent, and are morally bound to uphold decency and goodness as a way of life. But a person who has lost all supportive values of his culture, and who has very little faith in new ideas of life after death, and who attends a church in which the most valued things of this earth are condemned, such as riches, drinks, women, power, etc., is left in a very ambivalent situation in which he feels free to try his luck. A car bought of stolen cash can run as fast as one bought with cash obtained by daily sweat. Many people believe that unemployment and poverty cause crime. This may be true up to a point, but we know that there are extremely poor people who will not have courage to steal; there are very poor and humble clerks who never dream of embezzlement or forgery. There are also very wealthy people who are crooks, thieves, rapists and even murderers. The difference lies in the attitudes of mind. While in schools, young people look forward to the day they will come from Makerere University to get high salaries. As time goes by, they drop out and take jobs they thought were beneath their dignity. Others are not so lucky as to get jobs, so they become those we call the “unemployed”. Frustration and dissatisfaction lead to all sorts of anti-social and very often criminal behaviour. Africans in this country have been exposed to frustrating experiences, there is abundant wealth which the majority are unable to enjoy; channels of upward mobility in the economic sector are hermitically blocked. This comes nearer to Merton’s theory of anomie; a situation in which individuals find it impossible to acquire socially valued goals. Anomie is widespread; consider a situation in which about one per cent of the population control, and enjoy 80 per cent of its economy. This situation has frustrated the bulk of the African people in Uganda. Asians monopolise trade, commerce, industry and all supervisory jobs in the country. The Africans, have to use illegitimate means to acquire wealth; hence corruption, open robbery, bribery, nepotism and other types of vices. The role of the family has declined, the general impression is that the family has more and more given up its role in society. Parents now take orders from their teenage children. You find small girls often shouting at their parents, “Daddy, do not be silly!” This is thought to be good, because it keeps us aware that we are ‘educated’. But it has a bearing on the social role of the child. There are far too many people

who are growing up in artificial and abnormal family conditions. There are thousands of young children who are being reared not by their parents but 'Yayas' when the father is unknown, and the mother goes to work in a bar or hospital. Parents have given up their responsibility; they even believe that to scold a child is not Christian, that it is primitive, and as a result children develop the way they choose. There is widespread inadequate socialisation which is conducive to deviance.

One other factor is imitation which is a result of cultural contact and which is becoming the greatest problem in all African ways of life. There is nothing Africans are not imitating. There are things and ways of doing things that have been and must be imitated; but we have to be selective. I sometimes feel that there is no other group of people who are as suggestible as we are. Other people come and suggest to us that we are by nature inferior, some people accept this; that our food habits are primitive, we accept it; that our gods are in fact not gods but spirits, we accept it; that our culture is poor and our songs and dances backward; and that even our black colour is bad, and we accept all these things uncritically even not in economic terms. People have made fortunes in selling wigs, guns, and all sorts of uniforms. Let an economist determine how much money has gone out of this country to buy wigs, lipsticks, and skin polish. Who needs that money? It is us and not those in industrialised countries. While we buy all these our brothers and sisters are starving! Consider the amount of money that leaves this country to pay for priests and nuns' dresses, wine, and rosaries, and other religious articles; but some people have no support.

Then, there is a general distrust of law-enforcing agencies. Distrust is the problem. People know who the *kondos* (armed robbers) are in their villages; they know who brew *waragi* illegally; they know who keeps firearms without licences but because of distrust of the law enforcement they are unable to communicate this knowledge to the police.

Finally, we have the treatment of the offenders. The way people treat their criminals in some ways, shows the nature of their morality, intellectual development and value system. We do not have figures to

show the rate of recidivism, a process of committing further crime after release from prison. What are our views of criminals? Some societies view criminals as people who are in trouble and who need assistance and help; while others look at the same offenders as bad people who should be done away with; the policy adopted stems from these two perspectives. If a person steals an old handbag and is sent to jail for four months, it may indicate that society (through the magistrate) values property more than human life. There is a case in my records, of a woman, married with two children, who was sent to prison for 6 months for stealing a toilet paper from a W.C. in one of the bars in one town. This was a very interesting case. The woman was sent to jail, her marriage and reputation were destroyed, her children were left unattended and developed kwashiorkor and on her release she became a prostitute. Who gained in such a case? Some of the problems are due to our own policies of importing policies that are “made in England.” They may not operate under our conditions.

Note that if there is only one man in a village who has ever been to prison, the whole village uses him as a reference when talking to their sons; but when five out of ten village dwellers have been to prison, the prison becomes a common place where one has to go to once or twice in a lifetime. The prison has lost its grip on society, and this cannot be improved by making prison life difficult. Ramsey Clarke, a former Attorney General of U.S.A. has referred to prisons as “Factories of Crimes.” (Clarke, 1971).

As to what should be done, I think that more empirical research needs to be done; I personally know of no research on the lines I have outlined that has been done. To embark on treating criminals of the problem is like treating a patient whose disease has not been diagnosed; the chances are less than just fifty-fifty for the patient's recovery. We need to know the basic contributing factors to criminality.

Finally there is the problem of cultural values of the society. Violence attracts many people especially those with low educational attainment and who are thoroughly alienated, frustrated and who unconsciously feel hostile towards the entire society. In a society

where insecurity and a feeling of hopelessness are widespread and shared by the bulk of the people, human life becomes no more worth than that of a chicken. The worthlessness of human life is a problem in present-day Uganda; few of our native brothers have any reverence for life. Violence is our cultural problem which we need to examine seriously. Individuals develop anti-social attitudes when they perceive their roles in society in a negative manner. It has been said that individuals who have nothing at stake in society tend to develop deviant behaviour.

Alienation, anomie and marginality are some of the contributing factors to deviant behaviour. Looking at criminal homicide in Uganda, one begins to think of the sub-culture of violence. This appears to be an aspect of the national character of the people. Programs that may be designed to lower the rates will need to deal with the problems of restoration of reverence for and the value and worth of human life. Measures to take up this issue are necessary if the situation is to be arrested before it reaches proportions Colombia experienced when *La Violencia Colombiana* swept through that country.

CHAPTER 3

SOME ASPECTS OF VIOLENCE IN AFRICA: THE SOCIAL AND THE POLITICAL*

The changes that have taken place in Africa in the last 150 years have been phenomenal. Among the root sources of those changes was the European scramble for the continent. The main aims of the scramble were to establish 'spheres of influence,' to access, monopolize and ensure a steady supply of raw materials, to control and structurally compel African labour to produce raw materials cheaply, and to establish and control markets in Africa for goods manufactured by the industries of the competing European powers (Pakenham, 1991).

Military confrontation over the scramble for 'spheres of influence' was averted at the Berlin Conference of 1884. Presided over by the German Prince Otto Bismark, the conference culminated in partitioning Africa into exclusive 'spheres of influence' for the European powers of the time, in particular, England, France, Belgium, Germany. Conspicuously absent from the conference was Portugal, which was already entrenched in Angola and Mozambique since the 15th century. For unknown reasons, the Americans did not take part at this conference.

The Berlin Conference was the prelude to the colonization of Africa by the participating countries. In some cases, even a few individuals acquired huge portions of Africa as private property. The case in point is King Leopold of Belgium. He was 'given' the territory of the present-day Zaire, one of the biggest and mineral rich countries in Africa. In other cases, nationals of countries party to the conference assumed permanent residence in the acquired 'spheres of influence,' took over the most fertile land, and confined the indigenous people to reserves where they could barely survive following which the same settler Europeans exploited their labour to the maximum for near-zero pay. That was the case in Kenya which became known as a "white man's country" (Edgerton, 1989:x).

Explanations surrounding the scramble for Africa are many. In some cases the scramble has been represented as about opening up the 'dark continent' to infuse Christianity, civilization and commerce. But even if one were to accept the civilization – however one defines civilization – and other versions of the scramble, it is difficult to be oblivious to the fact that, besides converting most of Sub-Saharan Africa to Christianity, the benefits from contact with Europe were and in many respects, remain, invisible to, and remote from most Africans. That is so, if not worse, even following independence. Africans are still battling with illiteracy. In many respects, there is lack of general enlightenment. As for commerce, raw materials from Africa are still extracted and exported – with little or no value added – as was the case centuries ago. Most Africans remain as exploited as they were during colonialism. These are the contexts in which Eitzen and Zinn argue that Africans “are poor... because they have been and continue to be dominated and exploited by powerful nations that have extracted their wealth and labor.” (Eitzen and Zinn, 1993:56).

All in all then, introducing new belief and legal systems and political, economic and administrative processes and structures, and arbitrarily 'uniting' but treating heterogeneous populations differently, ushered in Africa a period of, and laid the seeds for, social upheaval of unforeseen consequences for the continent and its people.

Using select cases for illustration, the main aim in this presentation is to reflect on the historical factors, processes and contexts contributing to the violent social upheavals of genocidal proportions such as we have just witnessed in Rwanda. I organize the presentation around the concept of violence. I focus on two types of violence, namely, the social, and in more detail, the political. For illustration, I draw on a diversity of African countries, namely, Uganda, Rwanda and Burundi, The Sudan, Nigeria, South Africa, and Angola and Mozambique, whose common denominator are records of some of the most excessive political violence in recent times.

TWO FACES OF VIOLENCE

The incidence and categories of violence in Africa must be examined from the contexts of the abrupt and some of the most brutal changes in history the continent has been subjected to, and is still undergoing and experiencing. As Clinard and Abbott argue, countries undergoing rapid social, political and economic changes tend to have increased crime rates, especially property crimes. (Clinard and Abbott, 1973). Modernisation and industrialisation, plus the accompanying urbanization, tend to create conditions conducive to committing crimes as a result of the stress on, and the breakdown in the traditional social control mechanisms during the randomizing forces of change. Due to, and with the abrupt social, cultural, economic and political changes taking place, crime and violence have been on the increase across Africa. Social violence, which I will call violence with a 'social base,' is violence commonly committed by individuals during the course of social interaction. Such violence is culturally defined. There is plenty of literature to show that some types of violence – such as those with a 'social base' – result from cultural definitions of situations by individuals as opposed to groups (Mushanga, 1974:i). This means that different cultural groups may react to social situations differently. Even sub-groups with well-defined sub-cultures react to social situations. They define some situations as requiring, and define others as not requiring, violence in settling disagreements or differences (Wolfgang and Ferracuti, 1967).

Current criminological studies have tended not to stress the cultural factors in criminality and criminal trends. Emphasis seems to be shifting towards economic determination and social disorganization, or what Edwin Sutherland called differential association. (Sutherland and Cressey, 1978; Clinard and Meier, 1992).

Differential association, as advanced by Sutherland, has generally tended to replace the earlier theories, especially those of the Italian positivist School as put forward by Cesare Lombroso. Lombroso, challenging Cesare Beccaria, who had earlier postulated that only conduct that was deemed to be dangerous to the state or to other people should be prohibited by law, and that punishment should

be no more severe than deemed necessary to deter persons from committing such crimes, argued that criminal tendencies were hereditary and that “born criminals” could be identified by their physical characteristics, what he called stigmata. According to Lombroso then, “born criminals” were an atavistic or throwback to an earlier, more primitive species of humans; they constituted a distinct type (Haskell and Yablosnky, 1974:452-3).

Criminological data is very difficult to collect especially in African countries where collection of data of any kind is not yet adequately established. In many cases, homicides, attempted homicides, suicides, or arson are not clearly classified. This is not to mention some cases of homicide or aggravated assault – and we cannot know how many – which occur in very close domestic circles and are rarely reported to the authorities. Nevertheless a few studies conducted on the continent show that African societies have relatively high rates of violence, and especially homicide. For example, one study found a homicide rate of nearly 20 per 100,000 in Uganda. (Mushanga, 1974).

Studies and general observations in Africa locate the general pattern of criminal homicide in the social category. Most of homicides show the following features:

- Women are more often the victims than the offenders. Housewives and lovers tend to be the commonest victims in domestic violence. Domestic violence, which has some of its origins in the social structure of the African family, has been found to be on the increase due to the breakdown of traditional values (Mushanga, 1974; 1977).
- There is an increase in the use of firearms. In a Ugandan study of 501 cases, in only four or 0.07% were firearms found to have been used (Mushanga, 1974:70). This finding reflects the limited availability of firearms at the time of the study in 1968. If another study were conducted today, it would definitely show an increase in the use of guns in the commission of homicide and other aggravated assaults because of the increase in the availability and access to guns in Uganda. In other words, people tend to use the commonly available tool which the culture in question defines as an offensive weapon. For example, in 1991, there were 21,505 homicide cases

in the United States of America, 66.3% of which were committed with the use of firearms (Uniform Crime Reports, 1991:17; Information Please Almanac, 1993). This rate had gone up to 69.6% in 1993 (Information Please Almanac, 1996:856).

Siegel writes thus on the role of availability of firearms in committing criminal acts in the United States:

The use of firearms is a continuing source of controversy in the United States. Yet, there is little question that they play a major role in the commission of crime. According to the NSC, in 1989, firearms were involved in 20 per cent of the robberies, 10 per cent of assaults, and 6 per cent of rapes. During the same year, the UCR reported that 12,000 people were murdered with firearms. Most of these weapons (80 per cent) were hand guns... Despite these grim statistics, gun control remains a hotly debated issue. (Siegal, 1993:83).

- In the majority of cases of homicide in Africa, the crime is committed by young adults against young adult female lovers. People aged 20 to 30 years are frequently the offenders as well as victims, although there is indication that the offenders tend to be a little younger than their victims when the latter happen to be males. Further, the old and the young are rarely involved against each other in homicide situations; if and when they are, they are most likely to be victims than offenders. In the majority of homicides in Africa, the victim and the offender are related or are known to each other (Mushanga, 1974).
- Alcohol, or at least its presence, is often a common factor in homicides in Africa, with the offender or the victim having been drunk or having drunk some alcohol.
- In some cases, homicide is a result of fear and belief in sorcery and witchcraft; such cases are quite common in West Africa as well as in South Africa.
- In Some cases, homicide may occur as a result of long standing dispute over land, debt, inheritance rights and sexual infidelity.
- Finally, in some cases, homicide is precipitated by either the offender, the victim, or a third party. This implies that it is not always the offender that precipitates the

commission of homicide. The victim himself could bring about his own killing (Wolfgang, 1958).

Let us now turn the focus to political violence in select African countries, beginning with Uganda.

UGANDA

“The world chuckled, the Africans applauded, and Ugandans died at the rate of 100 to 150 a day” (Lamb, 1985:88).

The two decades from 1966 to 1986 will go down in the history of Uganda as a period of extreme strife. During that period, Ugandans were subjected to, and suffered from, brutality, torture, imprisonment, and all conceivable forms of degradation and gross abuse of basic human rights at the very hands of state security personnel supposed to protect them. Political opponents and/or rivals (real or suspected), involuntary membership – such as birth in ‘hated’ ethnic groups or regions – combined to lead to many innocent people being hunted down day and night. From the west of the country to the east, from the central to the southern regions, people were taken from their houses at night, others were taken from offices and other workplaces, while many were trapped at roadblocks set up in adhoc manner, in broad daylight. Murder and torture centres were set up in residential quarters, in government hotels, and in offices. One of the most beautiful hotels in the centre of Kampala, the national capital, had become a notorious centre of murder; many people who were taken there, never came out. They “disappeared,” as Ugandans referred to the state-inspired deaths.

Rape provided special entertainment and amusement activity for intoxicated and indisciplined soldiers. Old women and young girls were all often indiscriminate victims of rape by unruly government soldiers. Rape often preceded torture and ended in murder. One Ugandan newspaper correspondent narrated the plight of women at the hands of government soldiers thus:

Reports came from everywhere of acts of armed people attacking villages raping wives in front of their husbands, and mothers in front of their children, and children in front of their parents. School girls no longer feel safe to go to school (Mulira, 1984; Mushanga, 1988.

See also Amnesty International's "Violation of Human Rights in the Republic of Uganda," Index AFR59/21/85, June 1985).

For Ugandans then, violence was a daily experience. Well over one million people may have been killed during the dictatorships of Apollo Milton Obote and Idi Amin; more than one million people went into exile in neighbouring Kenya, Sudan, Zaire, Tanzania, while others went as far away as Zambia, South Africa, Britain, Canada, United States of America and Papua New Guinea to escape extermination. One million or so others were internally displaced (Mushanga, 1992:57-81).

One British medical doctor working in Uganda at the invitation of the government reported the state-inspired violence in the country as follows in a letter to the British minister on returning to his country:

I dearly loved the country and the people from its many different tribes. However, I grieve very much for the gross abuse of human rights that is going on in Uganda. My main concern here is not the restriction of basic liberties but mass murder. Uganda reflects the problems facing all African countries, the collapse of democratic government... but it is an expression on the scale of not only killing of political opponents but the mass murder of innocent people. From my experience in Uganda, the Obote regime is guilty of the crimes of Amin... I base this on having worked in one area for a year and subsequently working and travelling around a majority of the country (cited by Kanyeihamba, in Hansen and Twaddle, 1988:75-6).

The observations made by the British doctor about atrocities committed by his host government were not isolated. The following statement by another doctor, carried in the French newspaper *Le Croix*, is further evidence of the indiscriminate murders:

What was new for me, wasn't the poverty or the violence, but the daily and accepted terror. Ugandans live by the day and their own hope is that they survive... When in 1980 Milton Obote returned to power aided by Tanzanians, it was believed that Uganda would be coming out of the nightmare where Idi Amin had plunged it. Four years later, the opinion finds that the country is sinking deeper into murderous chaos (Hansen and Twaddle 1988: 75).

Among the root causes of the discord leading to political violence in Uganda during 1966-1986 was political sectarianism – a practice whereby the leadership, exploiting the heterogeneous character of the country, sought to govern using divide and rule tactics such as by pitting tribe against tribe, ethnic group against ethnic group, religious denomination against religious denomination, and region against region. During the period in question, the top leaders in the government and in the security forces in Uganda were, due to a complex mix of factors and processes set in motion since colonial rule, came from the Nilotic ethnic groups in the north of the country and even beyond. Those leaders, headed by Presidents Milton Obote and Idi Amin, systematically sought – from the time of independence – to dominate the more numerous (in the ratio of 3:1), economically and, historically, the politically powerful southern Bantu ethnic groups, in particular the Baganda and Banyankore. As the latter groups resisted the systemic exclusion and marginalization from the political and economic processes, violence erupted between them and government security agencies, in particular the army and the police, complemented by secret police and party vigilantes.

The above state of affairs escalated and did not end until January 1986 when the National Resistance Movement (NRM), led by Yoweri Museveni, forced dictator Milton Obote, and later his military brass, Bazilio Okello and Tito Okello Lutwa, out of office following a protracted guerrilla war. The new broad-based leadership that was formed has since been busy trying to restore security, rule of law and normalcy, and reconstructing the infrastructure to revive the economy. State-inspired violence has been eradicated. Political stability is restored. The economy is recovering, with the inflation down from 380% in 1986 to 41% in 1993 (Information Please Almanac, 1996:279).

Let us now consider the cases of Rwanda and Burundi, two small Central African countries located in the immediate south of Uganda and east of Zaire.

RWANDA AND BURUNDI

Rwanda and Burundi, both former Belgian colonies, have eight and six million people respectively. Both are inhabited by two races

[a race being defined as a group of people with common physical characteristics inherited from generation to generation and which distinguish the groups from each other (see Hunt, 1967:288)]. The two races in Rwanda and Burundi are the Bahutu and the Batutsi. The Bahutu are the majority in each country, while the Batutsi are the minority. The ratio of Bahutu to Batutsi in Rwanda is 85:14, with Batwa making up the remaining 1 per cent. The situation in Burundi is almost the same.

For centuries, the Batutsi, who, according to oral and written history, migrated from territories forming present-day Ethiopia and Somalia (Macquet, 1962; Seligman, 1966), and are historically pastoralists, have been the rulers in the two countries. Their reign and domination over the agriculturalist Bahutu and Batwa is well documented. Their rule has been ruthless and oppressive, and was accentuated during colonialism. Since independence in the 1960s, there have been repeated outbreaks of violence between the Bahutu and the Batutsi in Rwanda and Burundi.

Following the death of President Juvenal Habyarimana of Rwanda and Cyprien Ntaryamira of Burundi in an aircraft crash in Kigali on 6 April 1994, Rwanda was plunged into mass violence that even exceeded the genocide of Bahutu by Batutsi in Burundi in 1972. It is estimated that about one million people, mostly Batutsi were killed between 6 April and end of August 1994 (*The Globe and Mail*, 25 August 1994:A7; Mushanga, October 1994).

Because of the long-standing and deep-seated hatred between the Bahutu and the Batutsi, a hatred augmented and entrenched by the differential treatment of the latter over the former during Belgian rule, it is unlikely that the two groups would ever wish to live side by side – especially with the recent violence of genocidal proportions in Rwanda. The Bahutu fear redomination by the Batutsi even under the present regime of the Rwanda Patriotic Front (RPF), although RPF denies that it intends to do just that. The Bahutu and the Batutsi share at least one characteristic, apart from language and national territories: mutual distrust, hostility and duplicity. It is thus unlikely that they can ever live together – unless they agree to share power via genuine democratization of the social, economic

and political institutions and show willingness to live together. The hope for these two countries lies in their willingness to share power proportionately and democratically.

But with the RPF intending to prosecute an estimated 30,000–40,000 people, including 22,000 of whom served in the previous government (*The Ottawa Citizen*, 30 July 1994:B2), the future of Rwanda looks bleak. As one senior diplomat put it, for each one of those who will be tried by an international tribunal, there are twenty who will refuse to return to Rwanda and, instead, resolve to fight the Batutsi-dominated regime in Rwanda. The attempt to set up an international tribunal to try the perpetrators of genocide, might heighten fears of revenge, exacerbate the already nasty situation, and set the stage for a vicious cycle of revenge between the Batutsi who are now ruling Rwanda and the Bahutu who have fled it en masse. The end to this vicious circle is genuine reconciliation and tolerance.

In my view the best route to restoring and ensuring sustained peace in Rwanda is a general amnesty followed by a round table conference to work out a mutually acceptable program of power sharing particularly between the historically rival Batutsi and Bahutu. Genuine reconciliation – built on and manifested in a broad-based and non-sectarian kind of politics as practised in Uganda since 1986 – could be beneficial to all parties engulfed in the conflict in Rwanda than the folly of going to law. Reconciliation and legal retribution cannot be meaningfully implemented simultaneously. Tolerance and demonstrated willingness to live together would be the better, cost-effective, and viable alternatives.

While world attention has been on Rwanda in the past months, the situation in Burundi is not any better. The minority Batutsi dominate the army and continue to terrorize the majority Bahutu. The majority Bahutu resent domination and oppression by the minority Batutsi. Time and again, violence has erupted in that country since independence in 1960. Sometimes thousands of people have been killed. A *Newsweek* reported two decades ago:

In terms of sheer brutality, few events in the post-World War II history can equal the massacre that took place last year in the beautiful Central African Republic of Burundi. At the time, members of the country's

population rose up against the towering Watutsi overlords who have dominated them for centuries. The insurrection failed, and the “Tutsi” government of Col. Michael Micombero exacted a frightful vengeance – slaughtering up to 250,000 “Hutu” men, women and children. Some died from bullets or razor-sharp panga knives, others from long nails driven through their heads ... Best estimates are that some 10,000 Hutus have been killed so far in the current outbreak of slaughter – and the massacre is not yet over (*Newsweek*, 2 July 1973; Mushanga, 1988:24).

Twenty years after the above piece was written, Burundi was again plunged into violent conflict in which a democratically elected Hutu President, Melchior Ndadaye was assassinated by Batutsi soldiers who dominate the centres of power, including the military. In an attempted coup d'état only six months later, his successor, Cyprien Ntaryamira, was also assassinated with Rwanda President Juvenal Habyarimana when their plane was gunned down over Kigali on 6 April, 1994, sparking off the violence in Rwanda as discussed above. The Rwanda scenario could be re-enacted in Burundi any time, and there is nothing being done to prevent the repeat of 1972.

The approach to resolving conflict in Rwanda and Burundi lies in working out a democratic and acceptable program. Such program would clearly guarantee the minority groups equal participation in decision-making and freedom as defined by the United Nations. No group in those countries should be left in fear for its future. The majority must not deny the minority their human rights, and the “minority, as Mandela says, however vocal, should not be able to frustrate the will of the majority” (Mandela, 1994:219). Proper guarantees based on the rule of law, respect for human rights, and reverence for human life, must be spelt out before the two antagonistic races can live side by side. Thus, more important than, and the prelude to sharing political and economic power, is determining and addressing the root cause of the conflict in the first place. To ignore this need is to gloss over fundamentals and postpone viable solutions.

THE SUDAN

The Sudan is the largest country in Africa with a population of 28 million people. The conflict situation in the Sudan is yet another case of interracial conflict, feeding on and aggravated by religious and cultural differences. The racial element in the conflict is between Africans located in the south who are Christians or animist, and Arabs who are located in the north and are Muslims. The Africans are the majority, the Arabs are the minority. The Arabs dominate in government, the army and the civil service. The two groups are also characterised by economic disparity; the Africans are impoverished, the Arabs are better off.

The Arabs have ruled the Sudan since independence in 1956. All along, they have excluded Africans from access to political and economic power. In recent times, the Arab-led government in Khartoum, headed by Muslim fundamentalists, introduced the *Sharia*, or Koranic law, as the basic law of the country. The Africans have rejected and resisted the *Sharia*. Mobilized under the Sudanese Peoples Liberation Movement (SPLM), the Africans have been advocating for the “removal of religion from politics on the grounds that there is no room for religion in the politics of a multi-cultural, multi-ethnic and multi-racial and multi-religious state” (Malwal, 1992:8). The SPLM has stated, time and again, that it is not a separatist movement and that it is striving for a Sudan in which “no one race, especially a minority race, nor a religious grouping, especially the Islamic fundamentalists, are able to dominate political and economic power” (Malwal, *ibid*). According to Bona Malwal, a Sudanese scholar and former government official from the south, the Arab-led government in the Khartoum is the only government in Africa which is calling for division of the government, rather than reducing their power through sharing it with the Africans.

Historically, the present troubles in the Sudan date from and are the result of colonial politics whereby the British unwittingly incorporated in one country the two races identified earlier, namely, the Arab Muslims, and the Africans some of whom the British successfully converted to Christianity. To the legacies of colonial policies – which were insensitive to or ignorant of history – must

be added the pre-colonial factors. More specifically, Africans in the Sudan are frightened of Arab rule from lived and historical experience. The Arabs traded as slaves hundred of thousands of Africans across the desert into Arab lands and beyond (Mushanga, 1994). There have been articles in the media about Arabs trading desperate Sudanese African children from war-induced famine in contemporary times.

The international community has made efforts to bring the conflicting factions in the Sudan to a round table and negotiate peace but to no avail. The UN and the Organization of African Unity (OAU) have been involved in those efforts. But not much has been achieved so far. Among the reasons for the dismal performance of the peace efforts is that those agencies, and all others who have shown concern for restoring peace in the Sudan have overlooked a fundamental point – as they have in Rwanda and Burundi. They have glossed over and not addressed what caused the conflict in the first place and continues to fuel it. The best approach is to delineate and determine the origins of the conflict. If a disease is to be cured, its cause must be diagnosed first. Emissaries, peace talks, peace-keeping, and the like, are all important, but to resolve the conflicts, their causes must first be identified.

NIGERIA

Nigeria, a federal state Blaine Harden has referred to as a geographical and historical fluke, is about a third of the Sudan in size. (Blaine, 1990). It has an estimated population of 100 million people – the largest in any country in Africa. Among the salient characteristics of Nigeria are diversity and divisiveness. For example, there are about 395 languages in Nigeria – and not just dialects – of which three, namely, Hausa in the north, Yoruba in the south west and Igbo in the south east are the leading ones. (Griffiths, 1994:87).

Violence in Nigeria has erupted time and again, especially in the north. For example, the federal leaders at the time of independence, to whom power was transferred and were from the northern region, were assassinated in a single day. Those leaders included the federal prime minister Tafawa Balewa. After this incident, the Igbo, who

are some of the most sophisticated people in Africa, foresaw the impending conflict between the southerners and the northerners. They attempted to secede from the federation. They tried to establish their own republic of Biafra. Confrontation to end the secession plunged Nigeria into a civil war. Over one million people died, and Nigeria has never been stable.

Unlike in Rwanda, Burundi and in the Sudan, the war in Nigeria was neither racial nor religious; it was civil in the sense that one region tried to pull out of the federation, while others resisted that attempt. In another sense, the conflict could be described as nationalist. The Igbo, like the Yoruba, are a nation. They now number over 20 million people. Also, as I will show shortly, that war had an economic dimension.

The conflicts in Nigeria, which led to one of the most vicious civil wars in Africa, are as diverse as they are complex in their origins. For example, the present stalemate in which Mr. Moshood Abiola, widely believed to have won the June 1993 election and become President but only ended up in prison, is of a religious, economic, and tribal nature. Abiola, a Muslim, would have been acceptable to the Muslim northerners; but he is also a Yoruba, from the south. For the latter reason he has been unacceptable to northerners who still control the levers of power, including military establishment.

The origins of the conflicts in Nigeria are thus social, cultural, geo-political and economic diversity nature of that country. The sources of the conflicts include religion. Northern Nigerians are mostly Muslims; the Southerners are mostly Christians. Secondly, during colonial rule, the British practised what Lord Lugard called "Indirect Rule". That policy was inconsistent even within a single colony. Indirect rule encouraged conservatism and traditionalism in Northern Nigeria but did just the opposite in the south where western education, modernisation and democracy were introduced, promoted and encouraged. Third, in the sources of conflict in Nigeria is the economy. Nigeria has substantial oil resources. According to Harden, "Below ground, there are about forty years' worth of oil and a century's worth of natural gas." (Harden, *op.cit.*). That country ranks ninth among the largest oil producers in the world, and is

fifth in the world in natural gas reserves. In the early 1970s Nigeria had the strongest economy in Africa, although with the fall in oil prices, it has since slipped into fourth position after South Africa, Algeria and Egypt and now has a low GNP per capita of USD 310 (Griffiths, op.cit. According to *Information Please Almanac 1996*, p.242, the capita is now USD 1000).

Since independence, the southerners, including the Yoruba and other kindred groups, have realized that the northern Hausa-Fulani Muslims have been determined to dominate the political and military organs of the state for economic ends. Oil is the main focus in the struggle for domination and the subsequent conflicts in Nigeria. Each of the larger national groups would like to be in control of that vital resource, which happens to be located in the south and south-east of the country. If I may venture to make a political prediction, Nigeria will have to split or continue to be unstable until it becomes ungovernable.

SOUTH AFRICA

Conflict and violence in South Africa are racial in origin. Since the Europeans settled, acquired and monopolized political and economic power in South Africa, they have not only excluded Africans from meaningful and beneficial participation in the political and economic processes, they have terrorized them physically and systematically.

Following assumption of power by the Afrikaner National Party under Dr. F.M. Malan, *apartheid* –whose main objective was *Baaskap* or keeping black people in their proper place – became the official policy. The architect of *apartheid* was Dr. Hendrich F. Verwoerd who became Prime Minister of South Africa in 1958. Whatever its manifestations, *apartheid*, was about avoiding and preventing any likelihood of Africans, who account for some 70% of the population, to ever rule over the minority whites, who are just about 18% of the 40 or so million people. The remaining 12% of the population of South Africa is constituted by people of East Indian origin and the coloured, as South Africans of racially-mixed parentage have been historically classified.

Even with the winds of change blowing across Africa, Whites in South Africa were devising more tactics to hold onto power for ever. Using divide and rule, and exploiting local differences, the Whites instigated and fuelled violence by and among Africans. The goal was to prolong minority rule and make the country seemingly ungovernable (except with whites as the rulers) (Mandela, 1994).

Violence in South Africa intensified even with the release of Mr. Nelson Mandela. The Zulu encouraged by the whites began to agitate for a special status for their kingdom. Whites, Boers in particular, demanded an autonomous state as did some of the nominally independent Bantustans, the scattered reserve-like territories created under the policy of *apartheid* as independent states for Africans, but were never internationally recognized outside South Africa.

A lot of violence in South Africa was inspired by the racially-biased, white dominated regime. That became so evident especially when Nelson Mandela was sworn in as the new President on 10 May, 1994. The level of violence among Africans declined quite considerably. The whites who had been threatening the country and the world with a rebellion that would lead to a bloodbath, have since retreated. Now they are talking about negotiating a deal with the Mandela administration!

It can be assumed that without more agitation and support from white extremists, the mainly Zulu Inkhata militants will end their campaign of hostility towards the African National Congress and its members. South Africa, the last bastion of racially-biased European domination in Africa, could as well become the model of reconciliation for the rest of Africa to emulate.

ANGOLA AND MOZAMBIQUE

By way of concluding illustrating the otherwise complex dynamics in the violent political conflicts in Africa, two more countries, Angola and Mozambique, will be examined.

Angola and Mozambique, with eight and seventeen million people respectively, were Portuguese dependencies since the 15th

century. These countries contributed enormously to the wealth of Portugal which exploited and exported both human and raw material resources. Long-term harm was done to the development of these countries even after Portugal relinquished control over them in 1975 following nationalist guerrilla activities. Their economies were left in shambles. Illiteracy was high and there had never even been preparation of indigenous people for the possibility of assuming leadership. In the minds and policies of Portuguese authorities, Angola and Mozambique were destined to remain Portuguese provinces – only that they were located overseas, where the Europeans went on

Perhaps most unique to the conflicts in Angola and Mozambique is that the nationals of those countries have been fighting other peoples' wars – at least in a more open manner than elsewhere in Africa. In both countries, foreign interests have been considerable and open in fuelling and sustaining the conflicts (Museveni, 1992). Let us take the case of Angola. The Americans and South Africans incited and openly supported the UNITA forces of Savimbi to fight the Soviet-backed MPLA forces under Presidents Neto and his successor Eduardo dos Santos. The Americans and their allies were using Angolans to fight among themselves to dislodge the Soviets from a western 'sphere of influence' following the unplanned departure of Portugal which had created a power vacuum in Southern Africa in the broader context of the Cold War. In the same Cold War context, the Soviets had supported MPLA since the struggle for independence with the view to having an opportunity to establish a niche in western 'spheres of influence.' Is it, and can it be, a coincidence, that with the thawing of the Cold War, we are witnessing reconciliation and efforts to put in place mechanisms for democratic processes in these two former Portuguese dependencies?

CONCLUSION

No survey, however extensive, can exhaust the proliferous violent political conflicts in Africa. Even if such attempt were made, it would be out-dated almost immediately with the outbreak of violence somewhere in one of the over 50 independent African states. Without attempting the impossible task of examining the conflicts

in all the African states, I will conclude the present survey with stating the obvious: the turmoil and often violent conflicts in Africa are due to sectarian politics motivated by the desire of one or more groups to dominate and oppress another or other groups. Resistance to such tendencies have lead to violence. Sectarianism, feeding on emotionally-charged factors such as race, religion, territory, ethnic identity and language has been at the root of many conflict situations across Africa.

Conflict in general and violence in particular, have been enhanced by foreign powers pursuing their own interests in Africa and beyond. Some of the conflict situations in Africa have been simply extension of European conflicts. However, instead of fighting each other, some European countries, from the Berlin Conference to now, have used and pitted Africans against Africans. European involvement in African affairs and providing arms and ammunition to contending indigenous groups in the hope of retaining and/or asserting spheres of influences for, among others, economic reasons (although African countries are 'poor' and in debt, in 1993 they could afford to import weapons worth USD 13 billion) have perpetuated social conflict.

In the cases I have examined, racially-biased inequalities have been a major factor in stimulating conflict particularly in Rwanda, Burundi, South Africa and in the Sudan. Tribal as well as religious and/or regional factors have been at play in the conflicts, as the cases of Nigeria and Sudan show. Foreign interests, historical and present, have fuelled and sustained conflicts; Angola and Mozambique are cases in point.

The above factors and sources of conflicts notwithstanding, it must be pointed out that some of the conflicts in Africa are part and parcel of the broader process of state formation and nation-building. Historically, very few countries in the world have emerged and survived without engaging in waging wars. Without war, USA, Germany, Russia or even Japan, may never have become as mighty as we know them today. Some African nations are at war as an attempt and as a process of creating nations out of the many tribal or ethnic

groups existing in most countries in order to consolidate them as nation-states.

War is not a hobby engaged in for the sake of it. It is part of an attempt to reach a solution to a problem which formal and informal political and administrative processes have failed to provide. I do not condone war; and I am not suggesting that war should be institutionalized. I have seen a lot and enough from war in my own country. I am for not sparing any effort in bringing peace in any kind of conflict; rather, I am for seeking the least costly and mutually acceptable solution to the issues contributing to confrontation. But to achieve such a goal in any conflict situation, the real causes of the conflict must be explored, delineated and addressed in a manner appropriate for all the parties involved in the conflict. In some cases, the sources of the conflicts can be identified easily; yet those sources may be deeply entrenched and very difficult to correct, partly because even in conflict there are beneficiaries, as we have seen in the course of this presentation. Such cases need a high degree of political commitment, tolerance, reconciliation, and readiness to share power as well as willingness to live together in spite of whatever factors may have precipitated even the most vicious hostilities in human history with respect to the groups concerned.

CHAPTER 4

WOMEN AS VICTIMS OF DOMESTIC VIOLENCE*

DATA ON WOMEN VICTIMIZATION

In some of the communities in East and Central Africa the wife is the most often victimized and most often killed person within the immediate domestic group. Different cultures have different ways of resolving crises; some stress the use of violence while others require that such crisis situations and conflict be resolved in ways other than violent ones.

The data used in this paper were collected by different researchers at different times and from different African societies. Data from Ankole, Kigezi, and Toro districts in the Western province of Uganda, as well as those referred to as extra sample were collected by the author and relate to the 12-year period from 1955 to 1968 inclusive. The extra sample data refers to cases of criminal homicide that were collected from other areas of Uganda outside the Western province (Mushanga, 1974). Data on the Alur people of north Uganda were collected by Southall and cover a 10-year period from 1945 to 1954 inclusive. Data for Abanyoro of Western Uganda were collected by J.H.M. Beattie and cover a period of over 20 years up to 1955. Data on the Bagisu of Eastern Uganda were collected by Jean La Fontaine from 1948 to 1954 inclusive. A total of seven ethnic groups are taken from Uganda, six of whom are the 'Bantu' stock and only the Alur belong to the 'Nilotic' group of people.

From Kenya, data were collected on the Abaluhya of Western Kenya by Paul Bohannan for the years 1949 and 1954. Data on the Joluo, also of Western Kenya, were collected by G.M. Wilson before 1955. Data on the last group of people, the Tiv, a semi-Bantu people who live in central Nigeria in West Africa, were collected by Bohannan and cover 1949-1955. All of these studies are found in a book on homicide and suicide edited by Bohannan (1960). Data for a small sample referred to as Kamiti were collected by the author at

Kamiti Maximum Prison in Kenya and do not represent any single ethnic group of people within the Republic of Kenya (Mushanga, 1978).

The following table shows the frequency of victimization of wives among these communities in comparison with eight other relations within the family.

Table 1 shows that the wife is the most victimized person within the family in all the groups considered except the Abakiga people (shown as Kigezi – the name of their homeland – in the table). The Abatoro of Toro district, the Abanyankore of Ankole district, and the Tiv of Nigeria have a high criminal homicide rate against the brother. The highest rate of wife victimization was by the Abasoga of Eastern Uganda. The table also shows that the sister is the least victimized person in the family of origin, although she is frequently victimized when she marries and becomes a wife.

ANALYSIS AND EXPLANATIONS

The explanation of human violence presents a formidable task. Some believe that violence among human beings is an innate and therefore a biological and genetic trait – that in fact aggressive tendencies can be seen in infants when they cry, kick, and pull their hair. This theory has often been advanced to explain violence, brutality, murder, and general nastiness of African soldiers and regimes against fellow countrymen. But if this were true, violence would be the general characteristic of all soldiers and regimes the world over. The fact that different racial and ethnic groups all over the world show marked differences in the use of violence in settling interpersonal conflicts may indicate that biology plays a relatively minor part in determining criminal homicide offenders, rapists and other violent offenders. It also appears that if aggression is an innate trait common to all human beings, then its expression is largely determined by cultural and environmental factors most of which are beyond the individual's control. Thus an explanation of acts of violence must be sought not so much in the biology of the individual or of the group to which he or she belongs but in the culture of the individual violent offender's native group.

Table 1. Victimization of Wives Among Selected Communities

Group	FA*	MO	BRO	SI	WI	HCS	DA	SO	Total	% of Wife As Victim
Ankole	4	3	10	-	10	5	4	6	42	23.1
Kigezi	7	3	1	-	6	4	4	9	34	17
Toro	1	-	9	-	13	2	-	1	26	50
Extra Sample	4	2	5	1	14	6	1	7	40	35
Alur	1	-	2	-	2	-	-	-	5	40
Abasoga	1	-	1	-	39	-	-	-	41	95
Abanyoro	1	-	1	-	8	-	-	-	10	80
Abaluhya	3	-	4	-	5	-	-	1	13	38
Luo	-	-	1	-	6	-	-	-	7	85
Bagisu	7	-	5	-	7	4	-	-	23	35
Tiv	-	-	7	-	8	1	-	-	16	50
Kamiti Sample	5	-	5	-	7	-	1	3	21	33.5
Total	35	8	51	1	125	22	6	27	278	48%

* FA= Father, MO=Mother, BRO=Brother, SI=Sister, WI=Wife, HCS= SO=Son, DA=Daughter

Numerous studies have shown that crime, and particularly violent crime, is predominantly a male activity. Wolfgang (1967:4) reports that every study known confirms this fact. Numerous explanations have been given for this male supremacy in crime and violence, nearly all tending to name cultural values, role-playing, and expectations defined by given cultural group norms. Those same studies show that those involved in acts of violence such as rape, assault, or homicide usually know each other or are related. Wolfgang found, as did Bensing and Schroeder, that homicide is usually an intra-racial crime (Bensing, and Shroeder, 1960; Wolfgang, 1958). Violence is also an intra-sex activity. Men fight and kill men; rarely will males

kill females who are not then wives or lovers. These facts appear to be common to all groups of people. Both of these factors – race and sex – show that criminal homicide results from other social interactional processes. That is, criminal homicide tends to occur within close relationships.

The data as presented in the table reveal a third major observation; when violence erupts within the family group, the wife stands a much greater risks of being killed than any other family member (von Hentig, 1967). The table shows that of 278 victims, 125 or 44.5 per cent were wives. Factors that underlie this phenomenon must be sought within the processes of family life.

It is in the nuclear family that the individual looks for support, sympathy, comfort, and love. Each member of the family has his or her roles to play for the general well-being of the group. In some of these communities the roles attached to the status of ‘wife’, ‘husband’ or ‘brother’ involve obligations which, if not met, may anger another family member. The wife is usually the fulcrum of the family. Thus differential association becomes an important theory in explaining why the wife is the most common victim of intra-family homicide. Studies done in Uganda and Kenya in the last few years on criminal homicide show, in general, that violent homicide involving people who are related to each other tends to be the culmination of a series of episodes over a period of time rather than an abrupt eruption of violence, as is common among friends during a drinking session. The major factors of family conflicts are priority, frequency, duration, and intensity of the person to person relationship (Sutherland and Cressey, 1970:212-215).

Priority refers to how soon after the marriage the disputes and conflicts begin. This should show that the earlier the disputes begin, the more likely they are to lead to domestic disasters. The Abanyankore have a proverb “abaatiganda nibatiganda tibatuurana” meaning that those who start quarrelling while they are preparing to build a house never live together. Disputes that start soon after marriage lead to either divorce, separation, or frequent fights which sometimes results in the death of either the wife, the husband, or other member of the family. It appears from the victims’ ages that it

is the young wife, perhaps married for a few years, that is likely to be killed rather than one who has been married for 10, 15 or more years.

Frequency refers to frequency of contact between members of the family in which a man has most frequent contact with his wife, not including small children. Violence is most likely to erupt if these frequent contacts are characterized by conflicts and jealousies.

Duration refers to the time such frequent disputes have lasted. This may mean that cases of criminal homicide in which the victim is either the wife or the husband are most unlikely to result from single outbursts. The following case illustrates how prolonged conflicts may end in homicide:

Zeinab and Hassan lived for several years in an unsuccessful marriage which Zeinab deeply resented because she had been forced to marry her cousin. Zeinab, now 30 years old, was married at a young age against her mother's wishes but with the approval of the rest of the family. Zeinab saw to it that the marriage was not a success and for many years she remained with her parents and resisted her husband's attempts to install her in his house. The two quarrelled frequently and once Zeinab's father had to intervene when Hassan complained of his wife's disobedience. One night the two had been drinking separately with friends and when they laid down for the night Hassan asked for sex but Zeinab refused, kicking him away. In a drunken rage he drew his knife and stabbed her while she did not resist. She died soon after. Hassan was found guilty of assault with a deadly weapon and was sentenced to 10 years' imprisonment (Fluehr-Lobban, 1972).

The last factor in evaluating family conflict is intensity. In this context, intensity refers to the closeness of interpersonal relationship and also to psychological and emotional attachment between the conflicting individuals. The sexual relationship of husband and wife is an intense one characterized by jealousy and possessiveness. It is a highly emotionally charged relationship, reinforced by cultural values, which often breeds conflict.

THE VICTIM-OFFENDER RELATIONSHIP

Among the people of these communities, men victimize their wives for motives ranging from sexual infidelity to financial disputes, to chronic drunkenness, or suspicion of witchcraft. Some of these cultures, however, use strong negative sanctions against violence against wives by husbands. In Ankole, such a man risks losing his status and being subjected to ridicule and shame especially among his contemporaries and male relatives. In such societies, the annual rate of criminal homicide tends to be lower than in societies where violence against the wife is not regarded as any more heinous than that directed against any other member of the society. In Busoga (Eastern Uganda) where the rate of wife-killing appears to be extremely high, the explanation appears to be within the institution of marriage which has undergone an undesirable change. Temporary marriages seem to be replacing permanent, traditional marriage, and divorce, separation, desertion and suicide are on the increase. One informant said that there is no marriage in Busoga. Wives openly engage in extramarital relations with other men and this leads to family breakdown and very often to violence.

At the sight of a victim of a violent crime, most spectators will give their unofficial verdicts against the offender. Few consider the victim's contribution to his or her own victimization. In the study of criminal homicide in Uganda mentioned above, it was found that the victim of a homicide could be partially or wholly to blame for his or her own death. Gonzalez has shown that frequently the victim of a crime will, consciously or unconsciously create the conditions facilitating or favouring the commission of a crime (Gonzalez, 1965). Victims do facilitate their own deaths in many ways. Sometimes the victim invites the offender to kill her or she may use offensive and provocative language which may enrage the husband, as the following case shows:

I found Malitina having sexual intercourse with Kisoke in his house. I shouted, "Kisoke" twice. I said, "Release her." Kisoke said very rude words to me. I said I would do something bad to you this day. I then set his house on fire. Malitina ran out and I caught her and said, "You, too, will suffer today." Kisoke had taken Malitina twice and seduced her.

Malitina came back later that night and said I was too small for her, and I could eat her vagina. This annoyed me very much and I seized my panga and struck her. I only intended to punish her. I was very sorry for what I had done (Mushanga, 1974:103).

In another case the deceased again was the wife of the accused. One night, the deceased complained that the accused was a very poor lover and compared very unfavourably in lovemaking with another man called Daudi. While so complaining she squeezed the accused's testicles. The accused got hold of her and strangled her to death. Sexual infidelity and suspicion are equally important in the genesis of conflict and violence. In some cases the matter is made worse when one or both of the partners is drunk (Schafer, 1967). The role of alcohol in these cases can be clearly illustrated by the following case:

I was coming from drinking at Rwagara's home. It was at 1:00 p.m. I came together with Banjikira, Kuribuuza and Mugara. When we reached the Kikunyu tree, I told Banjikira that I was going to Sentabire's with Mugara; then Mugara asked me to have sexual intercourse with him. I allowed him. We went into the bush and had sexual intercourse. He had sexual intercourse with me for one round; then my husband came and found us standing; he walked for a short time three paces; he then came back and stabbed me with a spear in my ribs and pulled it out. When he came back, he found me lying down; he touched me to see if I had died. A man called Katondwe then came. That is my statement. (She died soon after making the statement). (Mushanga, 1974:114).

In the cultural contexts of the groups under discussion, a wife would be asking for trouble if she engaged in extramarital sexual relationships, especially with men from clans other than the one to which her husband belongs. Even in such cases, a woman to be found in *in flagrante delicto* by her husband may cause an outburst of anger from him. However, cases in which a man surprises his wife in bed with another man seem not be as frequent as cases of suspected infidelity.

Some cases of victim-precipitated homicides in which the wife is the victim result from direct invitation. In one case, a woman, wife of the accused, took a stick and began beating her husband while

calling upon him to kill her (Bohannan, 1960:41). In other cases, a woman may directly encourage her husband to hit her more by saying to him: "It was your father who knew how to beat; as for you, you are just playing with a stick." Cases also are on record in which wives get killed by taunting their husbands as being impotent.

In some cases a woman may actually be inviting trouble by persistently doing things contrary to the culturally defined ways of doing them. For example, a woman should not publicly insult her husband or her husband's father, mother, or brother. And a woman should not consciously or unconsciously let it be known that she is a witch or is capable of practising magic and witchcraft against her husband or her husband's other wives and their children. In societies where ways of behaviour are defined in terms of group culture, one risks his or her life by engaging in situations that may facilitate the eruption of violence. A woman who stages an argument with her husband in front of other people, especially when one or both have been drinking, stands a good risk of being a victim of violence. This is especially true among the less educated or uneducated and those who are unemployed or who are employed in the traditional sector of the economy, as cultivators, herdsman, porters, cleaners and the like. These are the people who are orthodox in their views about the way things are and should be done. To them, wives are women whose roles are defined as those of procreation of children, cultivation of the fields, cooking, and general care of the family but, above all, to remain subservient to their husbands. These are the tradition-oriented men who will not want to hear any "nonsense" about "equality" between men and women.

Marriage customs among the majority of the African people support this male view. When a woman gets married, she physically moves from her father's home to that of her husband after bridewealth (or brideprice) has been paid by the husband. Although African people never regarded the institution of brideprice as "buying" a wife, in a conflict situation an enraged man may say, "I bought you with my cows (money, etc.) and you stand there to..." In the same way a woman who is married without the payment of brideprice by her husband may say to her husband, "Why do you treat me like this? I will return to my parents; after all, you paid nothing for

me.” In a Bunyoro case, a woman shouted at her husband, “eza so ikanyara nkaha?” meaning, “where did your father’s cows urinate?” which implied that he had paid no brideprice and therefore could do as she wished.

It would appear that the new ideas about women’s liberation in communities that are generally traditional may create situations in which the wife may directly or indirectly bring about her own death. This may happen as a result of a woman’s attempt to assert her own rights, which may conflict with cultural patterns of behaviour and socially accepted responses of a wife towards her husband. Women’s liberation movements and ideas about such liberation appear to be generally acceptable to the educated and the well-to-do men of the young generations but remain quite alien and utterly unacceptable to the uneducated and the tradition-oriented men who form the bulk of the population and who also make up the largest percentage of violent offenders.

CHAPTER 5

CHILDREN AS VICTIMS OF CIVIL WAR IN UGANDA*

Uganda is a small country of 93,000 sq. miles located in Central Africa. It is bordered by Tanzania and Rwanda in the South, Kenya in the East, Sudan in the North and Zaire in the West.

The topography is that it is a high plateau of between 3,000 and 6,000 feet high with high Rwenzori range in the west reaching 16,750 feet. The equator passes through the southern half of the country. The capital is Kampala with a population of 500,000. The country's population is 16,000,000 of whom about a half are under the age of 18. Population density is 183 per sq. mile and only 8% is urban. The entire population is pure African stock of whom 80% are of Bantu group and the rest are of the non-Bantu group or Nilotic stock. The per capita of Uganda is USD 1200 (*Information Please Almanac*, 1996).

Uganda attained the status of a nation-state in October 1963 after 70 years of British colonial rule which left it ill-prepared for running its own affairs. This ill-preparedness was soon to be the main cause of prolonged suffering of the people of Uganda.

Soon after the departure of the British in 1963, the ill-prepared, inexperienced politicians began to impose a dictatorial form of government over the people of Uganda. By 1966, the British-made Constitution was revoked, the constitutional head of state who was also the King of the Baganda (a dominant national group within the country) was forcefully removed, the then prime minister appointed himself a president and from then, the reign of terror was imposed on the people of Uganda for the next 20 years (Karugire, 1988).

At the time of independence, Uganda had in fact attained a considerable high level of social progress with a stable economy which was mainly based on production of coffee, tea, cotton and copper. It enjoyed a relatively higher level of education than her immediate neighbours including those in West Africa. Makerere

University was the Oxford of Africa. The health services were good as was the communication network. Tourism facilities were excellent, our international reputation was worldwide. The crime rate was low and the Rule of Law was supreme. Under these conditions human rights were respected and reverence for life was observed, human life and its dignity were sacred; and our progress out of poverty and backwardness was certain.

The imposition of dictatorship on the people of Uganda was accompanied and even enhanced by widespread use of violence when and where political opposition was suspected. The arrest, detention and imprisonment of people without charge or trial was common. The torture and disappearance of people was rampant. The abuse of human rights, intolerance and general terrorism became the experience of many. Men who went to work in the morning and were late in returning at night were very often found killed and dumped in forests. Prisons and detention camps were filled with innocent people. Party activists and men in uniform became law unto themselves. Road-blocks were everywhere, members of opposition parties and those who were suspected of nursing anti-government sentiments were hunted down, killed or detained while those who were lucky fled the country into exile, where their lives were wasted. For twenty long years, the people of Uganda suffered at the hands of dictators; family heads were killed, families were destroyed, houses were burnt, crime and banditry increased and life in general became very miserable, nasty and short.

In all this turmoil, the children suffered most as victims of a situation which they did not create and which they could not understand let alone extricate themselves from (Dodge and Raundalen, 1987).

By January 1986 when the people's resistance might have eventually forced the dictators out of power in Uganda more than 800,000 people had lost their lives and upwards of a million people were in exile (Museveni, 1985:52). During the last year of this long period of brute dictatorship, 170 people were being killed each day which has been the highest record of death inflicted on the

citizens by the government in Africa since the advent of European colonialism.

Hundreds of thousands were orphaned when their parents were killed by government troops, hundreds of thousands more were left homeless. Hundreds of thousands in the war torn areas suffered from malnutrition, hunger and undernourishment as a result of the disruption of the economic activities in this part of the country. Shelter was scarce as a lot of homes had been destroyed by government soldiers in their hunt for the anti-government freedom fighters. Clothing was scanty, many had resorted to wearing clothing made from barkcloth; many people suffered from diseases associated with poor hygiene such as scabies and jiggers; tropical diseases became endemic especially malaria, diarrhoea, typhoid, tropical ulcers and helminthic infestation. A lot of people who got injured by bullets were left untreated as there were no clinics or other medical facilities.

From what has so far been presented above, it will be appreciated that under such conditions the plight of children and young adults can be very precarious. To have a clearer perception is to consider a case in which a small child of say four months or four years or even 10 years whose parents, and in some cases his grandparents have been killed and their neighbours have run away to other parts of the country! Many children suffered under these conditions when their lives were spared. The majority of them died of starvation, anxiety and exhaustion.

Those who were fortunate were picked up by National Resistance Movement freedom fighters and were cared for by the fighters who moved with them as they battled with government troops. These children were taught the use of firearms and were clothed in combat uniform. They were instructed in the use of firearms primarily for self-defence in case the group was attacked by enemy forces.

A lot of noise has been made against the National Resistance Movement for this. This we think was due to gross misunderstanding. First, the children were found in a state of abandonment with no assistance whatsoever; their parents and senior siblings having been

carried away and killed. Secondly, the freedom fighters had no permanent domicile where such children could be left under the care of an adult; there were only two options, one was to leave them where they were found, and this would be very inhuman; the second option was to carry them and feed them. But also out of necessity, those who were able to learn, were given instructions of how to fight back in case of attack and it is very amazing to see that these children became very good fighters. Mostly they went out as scouts and were able to assist in a very practical way in the struggle against the government forces. They came to be known as the “Kadogos” or the “little ones” in Kiswahili language.

It is therefore unfortunate to see that some of the news reporters were all out to condemn the National Resistance Movement for having included children in their freedom fighters. These reports were made by what one may call “armchair journalists”, that is those reporters who did not bother to look into the background of how these kids came to join the freedom fighters. They were never recruited as some would have us believe. Almost all with no exception have no parents or if their parents had not been killed they had fled the country and the children had been abandoned.

It was therefore not the intention of the National Resistance Movement to recruit children into its ranks. The inclusion of these children into the fighting forces was purely a practical solution to a human problem and those who have made it their responsibility to criticise, have done it out of sheer ignorance of what took place.

Consider, for the moment, the case of one, Robert. Robert was, at the time of his rescue, found in the company of a family of tropical monkeys in Luwero Triangle. He was about four or five years of age; he was thin and emaciated. He could not stand on his two legs; he could only move from place to place on all fours. He could not speak, he was not even able to use sign language for he was squawking like a monkey; he was naked and very dirty having not been bathed since the day he was abandoned, we do not know at what age. He could have been two years, two months, or two weeks or he could have just been born at the time he was rescued by monkeys. The monkeys took care of this most unfortunate human

being, they fed him, and sheltered him when tropical storms erupted; they carried him with them as they moved from one area of the jungle to another and possibly carried him up the trees whenever they felt it was necessary for his security. What we do not know is what they did with him or for him when he fell sick as he was bound to do under such conditions in the jungle. But the great miracle is that they cared for him as much as they could that it was possible for him to survive till he was found by human beings again. This was a fantastic humanitarian gesture towards a helpless human infant in a terribly desperate situation. This, by the way, is not a fictitious story, Robert is alive now in Kampala; but he is not yet able to talk, to laugh or play like any other human child of his age because of the trauma he has had to endure since the disappearance of his parents.

Today, the government has put all the Kadogos into school and are being given specialised education because they constitute a special category of children; children who have experienced violence, those who watched as their fathers and mothers were being butchered in cold blood. The experiences of these children is of violence, of suffering and of man's inhumanity to man to such a point that it was decided necessary to segregate them for the initial re-socialisation before their eventual reintegration into the general society.

The rest of the children who were orphaned or abandoned during the civil strife in the Luwero Triangle were gathered to Children's Homes where government departments are taking care of them. Schools have been established for these children as well as clinics and other social amenities.

The future of these children lies in their ability to acquire some skills for full social participation in the socio-economic system of the country.

In regard to the rest of Africa, the situation cannot be expected to be any more different from what has happened in Uganda. Wherever there has been civil strife as a result of political mismanagement, tribalism and the breakdown of the Rule of Law youth and children in general have suffered greatly; and since children and all young people below the age of 18 form the majority of the population in nearly all countries in Africa, one may postulate that juvenile

delinquency, deviance and crime will continue to increase because of inadequate or lack of socialisation as a result of the breakdown of social norms.

Perhaps the more serious problem is not so much as to what has been done but as what can be done to safeguard children from being victims of similar or worse civil strife.

This is where the concept of Social Defence comes in. This is where the role of international organisations such as the United Nations Organisation may be called upon to define its role vis-à-vis the victimisation not only of defenceless children but also of people who, for one reason or other, find themselves facing such intractable problems.

The United Nations High Commission for Refugees (UNHCR) has been doing very good work in Africa, and in other parts of the world where people have had to leave their homes because of fear for their lives.

But UNHCR is an agency that is to handle, process and assist those who are already affected and not an organ to forestall the occurrence of victimisation of human beings, children included. In other words, is there any way in which societies can be shielded from such social strifes that bring suffering to people?

My own view is that since the kind of victimisation people have experienced in Africa has been brought about by human beings and not natural causes, therefore it is possible to prevent such occurrences; the question is how to go about it. We could start by looking at the world as a whole. The world is divided into two parts, one comprises the rich nations; the other, the poor nations or the third world as it is known in polite quarters.

A closer look at these two groups of world nations shows that political instability, poverty, illiteracy, refugees, dictatorship, genocide, and general victimization of people are more prevalent in poor countries while democracy, political stability, security, freedom, human rights, reverence for life are more prevalent in rich nations.

It would therefore suggest itself that the only way to reduce the suffering of the masses in poor countries is to fight backwardness,

poverty, ignorance, illiteracy, dependence and hunger. This also means that it is not possible to sustain democratic practices in a poverty-ridden country. Democracy and poverty cannot peacefully coexist in the same society while stable dictatorship can also flourish in sufficiently poverty-stricken societies such as those we find in Africa and other depressed parts of the third world.

There are those who have made effort to explain political instability, and the abuse of human rights in Africa in terms of racial traits; that Africans, especially black Africans, are incapable of governing themselves because of their genetic inferiority. These sentiments were being openly expressed at the time of agitation for independence. That Africans, by nature, are like children; that those who are adults are only able to work under close supervision by someone else; that in fact they make very efficient hewers of wood and carriers of water; and as such are completely devoid of any capacity and ability to govern themselves. White racists in South Africa have held on to this view up to the present, the economic stability of both Botswana and Zimbabwe notwithstanding.

Present-day generation of Africans rejects this racist theoretical postulate because it lacks scientific verification and only serves to perpetuate the myth of racial inferiority of the Black Race (Hunt, 1966:292).

The present political turmoil raging in most parts of Africa is a result of a combination of factors. First there was slave trade which for three centuries or more syphoned off the intellectual and physical cream of the African people and exported them to Arabia, America and Europe. It is estimated that at the end of this very lucrative trade in human beings, over two hundred million people were forcefully removed from their homes and exported to be sold to plantation farmers in foreign countries. This obviously left the African continent depleted of men and women with mental and physical resources that were necessary for the development of their communities (*UNESCO Report*, 1979:211).

Then of course came colonialism which strifled initiative and institutionalised dependency and reinforced these evils with exploitation and exportation of resources to metropolises of the

colonialists. This lasted a long time; for example the Portuguese have colonised Angola and Mozambique for over 400 years. In other cases, the colonial period was short, for example in Uganda, it was only 70 years. But even then, 70 years is a long period in which a lot of things happened. Traditional norms, beliefs, artefacts, food-habits etc., had changed and a lot of traditional skills were lost and an enormous amount of wealth was exported, looted and traded.

These two factors go a long way to explain the present social backwardness and endemic poverty in Africa; and as we have indicated above backwardness and poverty are not conducive for political tolerance and democratic system of government.

Practical steps to be taken towards the reduction and eventual eradication of the suffering of the masses of the African people would include the reinforcement and the establishment of projects that will promote economic growth.

The second main step would be the provision of a comprehensive educational programme which will eradicate widespread ignorance, instil skills and help to internalise socially acceptable values including respect for law and order and reverence for human life. Currently, the education systems in some countries in Africa create more problems than they are able to solve. Education in Africa needs to be purposeful and not general as is the case in some of the rich nations. Purposeful education would tend to reduce unemployment while generalised education would tend to expand unemployment.

Education should equip the youth for meaningful social participation in the economic sphere of the country. Mere ability to speak English or French and to recite colonial history is not enough. Africa needs people with skills to grow food, to work in factories and industries, to work in science departments, in health and communication agencies. We need professionals to man hospitals, courts, construction projects, schools, etc.

Thirdly, the world community could exert pressure on delinquent governments in Africa to refrain from the abuse of human rights through economic sanctions. Rich nations could, individually play a very positive role when considering bilateral financial assistance

by making the respect of rule of law, and human rights mandatory. It is sometimes very difficult to determine the motives behind the behaviour of certain governments in given situations. For example, some European and Arab countries continued to give financial assistance and military armaments to the regimes of Obote and Amin in Uganda in spite of the reports of mass murders by Amnesty International in London.

It is self-evident that if these dictators did not have financial support and military supplies made available by such funds, they would not be able to terrorise their countries for such long periods of time.

Finally, the United Nations could do a lot if it set up an office to monitor the performance of member states so that deviant states could be checked in good time before damage is done to innocent people. This could go a long way to reinforce the role now being played by Amnesty International in London.

CHAPTER 6

CITIZENS AS VICTIMS OF STATE TERRORISM: THE CASE OF UGANDA

“I must state that Ugandans were unhappy and felt a deep sense of betrayal that most of Africa kept silent while tyrants killed them.” (Museveni, 1992:168).

“The world chuckled, the Africans applauded, and Ugandans died at the rate of 100 to 150 a day” (Lamb, 1985:88).

In January 1971 the Government of Uganda, a country that had become independent hardly ten years earlier, was overthrown in a military *coup d'état*, led by a semi-literate colonel by the name of Idi Amin. The military takeover of the civilian administration of Milton Obote was generally welcome not because it promised any improvement in socio-economic well-being of the people but simply because it removed an administration that was increasingly becoming unpopular with the masses especially among the Baganda (The dominant group who now number about five million of the 18 million of Uganda people). Obote's regime had become unpopular as a result of the abolition of the institution of traditional rulers following a political wrangle between Obote and the Kabaka (King) of Buganda in 1966. The conflict arose as a result of a political miscalculation whereby the Kabaka of Buganda (a regional tribal leader) agreed to assume the role of head of state as president. Sooner, the Kabaka realised as did the Prime Minister Milton Obote, that the two roles were incompatible. The dispute ended in the central government sending a military detachment led by Idi Amin to attack the palace of the Kabaka forcing him to flee. He died several years later. Five years after the overthrow of the Kabaka, Amin moved against Obote and replaced him as President of the Republic.

Under the British administration, Uganda had made very tangible social, political and economic progress and in fact was ranking quite favourably among the African dependencies, and was quite ahead of most of the British dependencies.

In 1962, Uganda became independent of the British protection. Uganda's civil service, the police, the posts and telegraph services were ranked the best in the region. At the time of independence, unlike most other dependencies, Uganda did not lack manpower, if anything, there was soon to be unemployment of university graduates (Mushanga, 1992;58). During the first three or four years after independence, the country continued to enjoy peace and political stability. The economic system and other developmental infrastructures continued to function normally and the association of Kenya and Tanzania in what was known as East African Community which ran the posts, railways, airways, and other social and scientific research agencies was doing very well (Dodge and Raundalen, 1987:16).

The root cause of Uganda's political discord as we shall see later, had their genesis in sectarian politics that were based on the three major sources of human suffering and misery in history namely religion, race and ethnicity (Mushanga, 1995 (a)). Conflict began to appear between the Bantu people of the south-west and east of the country and the northern Luo speaking people who are of Sudanic and nilotic origin from whom Amin and Obote came; that is on the one hand, and also between the catholics and the protestants on the other.

The assumption of state power by Idi Amin in 1971 ushered in a reign of terror in which the state, as the supreme organ of the nation waged war against the citizens who became the victims. The state agencies, especially the army, the police, and the secret force known as the State Research Bureau organised a terrorist campaign against innocent citizens of the Republic of Uganda hoping to silence the citizens from agitating for human rights. The main target were the intelligentsia among the Baganda and Banyankore.

Amin, with the support of some states, notably Libya, Saudi Arabia, and North Korea, and even Britain terrorised the whole population, the Ugandans became victims of their own government (Mushanga, 1995(b)).

A year after he had successfully staged a *coup d'état* against Obote, Amin began to question the status of Asians in Uganda as citizens. At

first he was concerned about non-Ugandan Asians doing business and owning property in Uganda. But later, he began to question the legitimacy of Asian citizenship accusing them of milking the economy of Uganda and exporting the funds by banking money in foreign countries which may have been the case. Eventually, he ordered all Asians out of the country by giving them ninety days in which to leave the country. This was extremely difficult for nearly all of them since all of them had been born, brought up and educated in Uganda. The Asians were not allowed to take their property with them, but even if they were allowed to do so, there was no way they could have carried all what they owned at such short notice. With the assistance of the British Government and other agencies, the Asians were able to get out of the country before the expiry of the ninety days.

The expulsion of Asians by Amin was not motivated by racism as some people tend to think, but by economic consideration. Amin was opposed to the monopolistic way the Asians controlled and dominated commerce, retail, import and export business, banking and so on. He in fact accused them of economic sabotage when he declared the economic war and was determined to put the economy in the hands of the Africans; and by Africans, he actually meant those from his Kakwa-Nubi tribe of north-west Uganda and Sudan. Many people in Uganda and beyond approved this move because the Africans were denied their fundamental right to run business by being unable to compete with Asians who controlled the capital (Mushanga, 1995).

What is most remarkable is that not a single Asian was killed, and not many were arrested, tortured or disappeared. It was after their departure that the entire country was engulfed in murderous violence that has not been seen anywhere in Africa even in history.

At the time Obote returned to power in 1980, the country was under the grip of violence that had not been known on the African continent. People were being killed every night, dead bodies could be seen every morning. People were taken out of their homes to be killed; others were taken from their offices or from their cars, from the bars and so on and killed for no clear reason. The Obote regime

did nothing to improve on the Amin regime, if anything, the Obote regime intensified the victimisation of innocent citizens.

Amin had started by being anti-intelligentsia; his earlier victims included Mr. Frank Kalumuzo, the Vice-Chancellor (President) of Makerere University, Mr. Benedicto Kiwanuka, the Chief Justice, Archbishop Janan Luwum of the Church of Uganda, senior medical, surgical and legal personnel as well as church and political leaders. Obote's regime of terror was more ruthless being non-discriminatory claiming its victims especially from the Baganda and Banyankore groups but generally victimising all and sundry whom it regarded as enemy by which Obote and his supporters meant those who in general disapproved of what was going on. As a result of this, hundreds of thousands of innocent men, women and children were killed at the rate of over 180 per day during the regime of Milton Obote making it the highest homicide rate in the world at the time during peace time (Mushanga, 1992, 57-81).

Under the regime of Milton Obote, life in Uganda was as Thomas Hobbes had described it under the state of nature as "nasty, brutish and short." Uganda the land of freedom, as the national anthem refers to it, was a land of grief, misery and death; the Pearl of Africa was becoming its shame. The Ugandan people were subjected to death, brutality, torture, degradation, imprisonment and all forms of terrorism at the hands of state security personnel. The victims of these terrorist acts were often thrown over garbage heaps, others were taken and thrown into the forests, and every morning army vehicles could be seen going round the city collecting dead bodies.

Murder and torture centres were set up practically in every army barracks; police stations, and others were improvised in residential quarters, in government offices and hotels. Room 211 in Nile Mansion (now named Nile Hotel) was notorious as a torture chamber and it is reported that hundreds of innocent people died in this beautiful hotel which the army elites and their political bosses had turned into their abode and victimisation offices. One hotel worker told of how he was mopping the hotel lobby when a dead body that had been pushed over the staircase by the murderer came rolling over the staircase. Residents of the upper floors of this hotel

were very often awakened in the early hours of the morning by the screams and cries of victims being tortured.

The centre of all these acts of violence was the State Research Centre at Nakasero, right in the middle of the city. This place, like the military prison at Makindye became notorious, and it was very rare that a civilian entered it and came out alive. Torture and killing were carried out by soldiers, party youth wingers, and other government agents almost all over the country with the exception of very remote and inaccessible regions and islands.

In most of the cases, the victims were opponents or suspected opponents of the regime. The victims were collected at night and taken to torture camps where they were interrogated, beaten, tortured and then killed by being shot or being hacked to death. In some cases, the victims were issued with sledge hammers and lined up in a single file. The first in a line was ordered to hit the next in line on the head with the heavy hammer and then pass on the hammer, the last was eventually killed by the soldiers.

The use of the sledge hammer and the swords was preferred to shooting because it was much more economical and did not cause unnecessary rumours that were aroused by the sound of gunshots. The bodies of the victims were dumped at gabbage heaps or buried in shallow graves or thrown into rivers or lakes.

Rape provided special entertainment and amusement for the intoxicated soldiers. Old women, young girls and pregnant women were singled out for this purpose; which was in most cases followed by torture and murder. Eridadi Mulira, a prominent Ugandan and a human rights activist wrote in April 1984:

“Reports came from everywhere of acts of armed people attacking villages, raping wives in front of their husbands, mothers in front of their children, and children in front of their parents. School girls no longer feel safe to go to school” (Mulira, 1984:2).

In some cases of this nature, sadism was demonstrated by the use of objects on human beings. For example, coke bottles or green bananas were inserted into the women’s vaginas. In one case, a prominent politician was being subjected to beating and torture. He

pleaded with his tormentors to be allowed to speak to the head of state by telephone to explain his case. His torturer took a sword and cut off the victim's penis and pushed it into his (victim's) mouth and told him to speak to the head of state through that "telephone." Later, the victim was tied with a long rope which was tied to a land rover which was driven in the streets to the great shock of the spectators who were helpless being unable to intervene (Mushanga, 1992:62).

From the time Amin assumed power in Uganda in January 1971 till the overthrow of Obote and Okello in January 1986, nearly one million people lost their lives, and as many as five hundred thousand went into exile. Most of those who were in exile went to Kenya, Southern Africa, the Sudan, Zaire, Tanzania, United Kingdom, Canada, USA and as far as Papua New Guinea.

The cause of state terrorism in Uganda is part of what may be called the African disease which is characterised by backwardness, political instability, economic stagnation, abuse of human rights, religious and ethnic intolerance, dictatorship, hunger, illiteracy, dependence and all manner of conditions that make life for the average African, very miserable.

This syndrome has more or less affected the majority of the African countries; Uganda, Rwanda, Burundi, Sudan, Somalia and Ethiopia being the most affected.

The state violence in Uganda may be explained in terms of the history of the country; the composition of its people, the religious sectarianism and the non-existence of political ideology as a guiding motivation for political action (Karugire, 1988).

Uganda as we know it today is a creation of British colonialism (Karugire:). It was created out of several Bantu kinglets to which were added many kingless groups of people whom some British anthropologists have called tribes without rulers. These were individually distinct ethnic groups of people who, generally speaking, had little in common. The languages were different, the cultures were different, the political systems were different; what they were to share in common was their domination by the colonialists. In the

majority of cases, these tribal groups were unfriendly and sometimes hostile to each other as was the case of Buganda and Bunyoro, and Acholi and Lango.

Seventy years of British rule was too short to have allowed this multiplicity of languages, cultures and ethnicities to merge into a homogenous national group.

Still now, people are identified as Baganda, Teso, Banyankore, Acholi and so on rather than as Ugandans; the allegiance of the majority of the people is to the tribe or the ethnic group and not so much to the nation. The European Missionaries made this admixture worse by introducing different religions that were already at war with each other in Europe. The average African therefore has a multiplicity of identities; the tribal, the regional, the religious and the political; the end result of this is the endless conflict that time and again has erupted into violence.

A clear indication of ethnic identification today is the demand for some kind of political autonomy on the part of the Baganda which they hope to gain under a federal form of government. The demand is for federal status that will ensure the supremacy of the Kabaka (King) of Buganda and his Lukiko (Parliament), the Government of Kabaka, the Luganda language and the Baganda culture. The Baganda's demands are almost like those of the French Canadians in Quebec.

Because of strong identification with the tribe or the ethnic group, some of the leaders regarded and treated members of other tribes not only as aliens, but also as enemies. In order to maintain power, the leaders such as Amin and Obote had to surround themselves with their tribal men and to keep those of other tribes out of power positions unless they proved themselves to be stooges of the leaders.

Tribalism, therefore, currently, is a very strong disuniting factor and a source of internal political conflict that led to the eruption of violence in Uganda. The second major contribution to state violence in Uganda is religion. Religion, as a social institution, throughout history, has been a source of human suffering, misery and death.

Religion today is at the root cause of violence not only in Africa but in the world as a whole (Mushanga, 1995). There is political unrest and violence in Algeria, Nigeria, Egypt, India, Pakistan and more violence in Bosnia and Northern Ireland because of religion. There has been a lot of loss of life in the Sudan because of religion.

In the case of Uganda, religion and politics were mixed up at the time of the advent of religious missionaries and colonialists. First there were religious wars (1888 - 1892) between Christians and Moslems, then between protestants and Roman catholics in which the protestants, with the help of Capt. Lugard and his cannon gun, were victorious; and ever since, protestants and Roman catholics in Uganda have never given up their rivalry and competition for political control of the country (Pakenham, 1991).

Religion became intertwined at the time political parties were formed early in the 1950s. The first political party, The Uganda National Congress, was formed in 1952 by a group of Baganda led by Ignacious Musazi and were nearly all protestants. Four years later, the Roman catholics formed the second national political party, the Democratic Party, led by Matayo Mugwanya (Karugire, *ibid.*).

Since the formation of these two political parties, politics in Uganda has persisted, to the present-day, to be organised along religious lines. At the time of independence the two main political parties struggled not only to get rid of British colonialism but also competed against each other on religious grounds to provide leadership. That is, the Democratic Party competed to have a Roman catholic as Prime Minister while the Uganda Peoples' Congress also tried to have a protestant as leader.

The current Government of Uganda has been engaged in political education of the masses with the main objective of ending ethnic as well as religious sectarianism so as to give way to the emergence of genuine ideological political parties that will cut across all sectors of society.

CHAPTER 7

VIOLENCE IN RWANDA AND BURUNDI: A RESPONSE TO CENTURIES OF RACIAL INEQUALITY AND SOCIAL DOMINANCE AND SUGGESTIONS FOR RESTORATION OF PEACE

According to available literature, the people who are now called Batutsi in Rwanda and Burundi, who are akin to the Bahima of Western Uganda, originally came from Abyssinia and Somalia and are of hamitic or semi-hamitic stock who are closely related to semites. They came wandering through the northern deserts with their long-horned cattle and invaded and subjugated the settled Bantu of the negroid stock; by establishing a feudal system of administration. The time of their arrival in these areas has been put at ten centuries. Maquet reports that:

“According to Meyer, 1913, the pastoral invasion took place in two ways. The first, at the beginning of this millenium reached the north-east of the province (of Rwanda); the second in the fifteenth and sixteenth centuries brought them farther southward. According to Kagame and Delmas, the first Hamitic populations invaded the country in the eleventh and twelfth centuries (Government du Rwanda-Urundi), (1956), p.9. (Maquet, 1961:12), (*The Globe and Mail*, Ottawa, 13 May 1994).

The Batutsi and Bahima are now classified as Bantu because of linguistic classification; they cannot be classified otherwise because they lost their language and only a few words they carried with them from the Nilotics such as some names of the rulers in Bunyoro and Toro such as Winyi, Adyeri and Olimi survive.

The invaders established a system of government in which the central figure was the ruler or Umwami in Rwanda and Burundi, or Omukama in Western Uganda and north-western Tanzania. Roscoe reports that the British changed the Omukama of Ankole and named him Omugabe to distinguish him from the rest of the rulers in the area (Roscoe, 1923).

In both Rwanda and Burundi, as well as in Western Uganda, the ruler exercised absolute power over all the people under him; both his fellow expatriates and indigenous people whom they nicknamed Bahutu in Rwanda and Burundi and Bairu in western Uganda (Oberg, 1940:121-62).

The invaders treated the Bahutu and Bairu as serfs and slaves. The subject people did all the manual work, they provided food, firewood, water, they built houses for their masters, they served their overlords, they had no say in the affairs of their own country; they were flogged, spat at, raped, killed without redress whatsoever (Maquet, *op. cit.*)

When the Belgians replaced the Germans, after the 1914-1918 war, they did nothing to improve the lot of the Bahutu people. At the time of Rwanda's independence in July 1962, the Bahutu were still not allowed to obtain education beyond primary school. They could not train as policemen, soldiers, priests, nuns, lawyers, or even be village or parish chiefs; their lot was to cultivate crops, work for their Tutsi overlords, and no more. After independence, the new government in Rwanda under Gregoire Kaibanda, and not in Burundi, made attempt to remedy this state of affairs. The Tutsi people did not like the change, they preferred the status quo, and that is the origin of the current conflict. The Bahutu insisted on fundamental change while the Tutsi preferred to retain the traditional institutions under which the Bahutu had no say in matters pertaining to the administration of their own country (Maquet, *op.cit.*, Doornbos, 1978).

Rwanda and Burundi came under the German sphere of influence after the Berlin Conference. In 1918, the German rule was terminated when they lost the war in Europe and the two countries were taken over by the League of Nations which in turn handed them to the United Nations as Trustee Territories in 1946.

At the time of independence, the people of Rwanda of the Bahutu stock who outnumber the Batutsi in the ratio of 12:1 rose up and overthrew the institution of kingship and clientage or obuhake and established a republic in 1961. The king fled, some of his Tutsi subjects fled into exile; most of them settled in Uganda, a few went to Tanzania, Burundi and Zaire. One knowledgeable official in

Uganda has said that at the time of the outbreak of violence in 1994, 85% of Batutsi were living outside Rwanda.

For almost thirty years, there was relative peace in both Rwanda and to a lesser extent in Burundi where the minority Tutsi continued to oppress the Hutu majority. At the time of independence in July 1962, Burundi remained a kingdom under Mwami Mwambutsya IV who was overthrown by his son in 1966; who was to rule Burundi as Mwami Ntare V but in turn was overthrown by his relative, Michael Michombero, who was the Prime Minister. Michombero proclaimed himself President and was overthrown later; he fled the country to Somalia which he said was the country of origin of the Batutsi.

Michombero's rule over Burundi was one of the worst autocratic regimes in Africa. The following is an account taken out of Newsweek magazine of 2 July, 1973:

"In terms of sheer brutality, few events in the post-World War II history can equal the massacre that took place last year in the beautiful Central African Republic of Burundi. At that time, members of the country's population rose up against the towering Watutsi overlords who have dominated them for centuries. The insurrection failed, and the "Tutsi" government of Col. Michael Michombero exacted a frightful vengeance - slaughtering up to 250,000 "Hutu" men, women and children. Some died from bullets or razor-sharp panga knives, others from long nails driven through their heads ... Best estimates are that some 10,000 Hutus have been killed so far in the current outbreak of slaughter - and the massacre is not over." (Mushanga, 1988:24).

It was not until 1993 that a Muhutu, for the first time, was appointed the President of this country of seven million people. In October 1993 President Ndadaye, the first Muhutu to be President of Burundi was assassinated by Batutsi soldiers who up to the present dominate the Burundi army. This was followed by an eruption of violence in which hundreds of thousands of people lost their lives most of whom are said to have been Bahutu. His successor, President Cyprien Ntaryamira was assassinated six months later in a plane crash together with President Juvenile Habyarimana of Rwanda on 6 April 1994.

The assassination of President Ndadaye sparked off some responses in the surrounding areas. In Ankole, the Bahima hurriedly installed the Mugabe whom they named Ntare V just like the last king in Burundi. This caused some considerable concern among the Banyankore and it is not clear what would have happened if the Government had not stepped in to nullify the installation of Mr. John Barigye as king of Ankole. Most likely, an outbreak of violence similar to that in Rwanda would have easily developed in Ankole, perhaps not to the same extent, but angers were very high among the Banyankore (Doornbos and Mwesigye, 1994).

At the time of the revolution in Rwanda hundreds of thousands of Tutsi people fled the Hutu rule and crossed into Uganda. The majority of the exiles settled in western Uganda mainly in Ankole, Toro and Buganda. They were settled but did not give up hope of returning to Rwanda, possibly with the hope of restoration of their traditional authority over the Bahutu population.

Then, all of a sudden, a group of exiles led by Fred Rwigyema organised themselves and invaded Rwanda from Uganda in October 1990. These were the Rwanda Patriotic Front (RPF) or *inkotanyi* in Kinyarwanda. Most of these men and women who were born and raised in Uganda and had been involved in the liberation wars in Uganda; were quite experienced in the art of warfare. When they got in contact with the government in Rwanda, they demanded among other things, the sharing of power, the restoration of their traditions by which they meant the restoration of their previous political status with their Umwami and so on. They never made this demand openly but it was understood that that is what they wanted; at least that is how the Bahutu leaders interpreted Tutsi demands.

During all this time, a lot of people lost their lives while the negotiations were going on; and in August 1993, an agreement was reached in which the two parties, the government on the one hand and the RPF and several opposition parties on the other, agreed to join together in a government of national unity which was due to last twenty two months to be followed by an election. But due to disagreements which emerged later, this arrangement was not implemented even by the time of the disaster on 6 April 1994.

On that eventful night, the presidents of Rwanda and Burundi, Juvenal Habyarimana of Rwanda and Cyprien Ntaryamira of Burundi were killed in a plane crash that was brought down by gun-fire at Kanombe Airport near Kigali; along with them died several cabinet ministers from Burundi and very senior government officials from Rwanda Government.

What followed was absolute chaos, the army battled with the RPF, disgruntled and disorganised elements armed Hutu militia known as *interahamwe* virtually took the law into their hands, and Rwanda was plunged into the most horrendous bloodletting conflict which the International Red Cross has termed as never been witnessed before. Within a matter of hours, the Prime Minister, Mrs. Agathe Uwilingiyimana was killed together with hundreds of other people including government officials and ministers. The Hutu militia went on the rampage killing Tutsi men, women and children indiscriminately.

Within the first week, the international media was announcing that over 20,000 people had been killed. By the end of the second week, the numbers had gone up to over 100,000 victims, three weeks after the death of President Habyarimana, the numbers had risen to 200,000 and the international media reported that massacre of innocent people continued almost unabated in spite of unilateral declaration of ceasefire by the RPF and later by the government forces. Towards the end of August 1994, a UN official was reported to have put the figure of those killed to about a million (The Globe and Mail, 25 August 1994, p.A7, Amnesty International, May 1994).

Many political observers believe that the number of people who have so far lost their lives in this inter-racial bloodletting will never be known; they may be estimated in hundreds of thousands, and the carnage is not over yet. A month after the assassination of the two presidents, the Oxfam workers had suggested that 500,000 people had been slain, most of them Tutsi; others have put the number to over one million (The Globe and Mail, *ibid*).

What has actually happened in Rwanda can be termed both as genocide as well as suicide, the two taking place at the same time. Genocide is defined as deliberate, premeditated destruction of

people of one particular group such as a race, tribe, ethnic or religion (Mushanga, 1976:18). Suicide, on the other hand, sociologically speaking, is entry into the realm of death knowingly; this is what the Batutsi did, they invaded Rwanda altruistically with the full knowledge that some of them were going to be killed. The RPF sacrificed their lives for the sake of their people. Durkheim considers it an act of suicide if a person willingly and without compulsion ventures into the war front for the sake of his group or his country (Durkheim, 1951).

The situation in both Rwanda and Burundi that has claimed over a million lives has its origin in racial conflict in which one group has been seeking to rule and dominate another group while the other group has tried to resist. The Batutsi have dominated the Bahutu and the Bahutu have tried to resist hence the bloody conflict (Mushanga, 1994).

What the RPF is not telling the international community is the most heinous, most inhuman way, the Tutsi rulers treated the indigenous people under the ingeniously instituted system of *obuhake* or clientage which perpetuated the subjugation of Bahutu by the Tutsi aristocracy for almost a millennium (Maquet, *op. cit.*).

During this time, the Tutsi oppressed the Hutu almost to the last man. The Hutu were made to carry Tutsi overlords on their shoulders or back, they built their houses, they herded their cattle, they hunted honey for them, they made beer for them, they made weapons, pots, baskets, mats, and, received no payment. Some of the most bizarre stories about the oppressive regime of Tutsi over Hutu include such acts as carrying of urine (*okwata enkari*) of the Tutsi by Hutu; the offering of Hutu as sacrifice to the Tutsi deities and the cutting off of testicles from Hutu males for the purpose of decorating the Tutsi mystical drum, *Karinga*, every time the new moon was sighted. At the installation of a new king, many Hutus and cattle were killed at various rituals. It was a crime for a Muhutu to see a Tutsi woman eating food, the penalty for this offence the unfortunate Hutu would have both of his eyes gouged out; the same penalty was meted out to a male Hutu who sexually admired a Tutsi woman.

This was almost the same thing that was happening across the border in Ankole. A contemporary and a distant relative of the present writer recently related a case in which he witnessed a Muhima chief being carried on the litter by a group of Bairu men. When they reached the village of Nyakabira in Shema, the Hima chief went into the bush to answer nature with a long call; after which he called one of his carriers to come and wipe him behind with plant leaves (Kumuheha omunio). This was in early 1930s (Kogire, 1994).

These and many other atrocities committed against the Hutu provide the clue to the current carnage. The whole sordid situation prevailing in Rwanda and Burundi has its roots in centuries of racial inequality, injustice and terrorism to which the Bahutu people were subjected by their overlords. The Bahutu suffer from a pathological dread of Batutsi rule that they can and have been prepared to commit genocide in order to ward off any likelihood of a Tutsi domination again; just as the Banyankore were, in 1993, determined to resist any attempt to impose the king on them.

The current violence in Rwanda and Burundi must be seen in terms of psychology of fear of the past and not so much in terms of political rivalry as some writers have suggested; it is the fear of the past being repeated, that bred hatred which now characterises the relationship of Bahutu and Batutsi and there is no amount of assurance that Batutsi can make to reduce this fear and hatred.

Secondly, the RPF and its spokesmen are not telling the international community that in October 1990 when they decided to invade Rwanda, they did not approach the Rwanda government for negotiating their return from exile.

Thirdly, they have never disclosed to the international community their intention to restore the kingship in Rwanda by reinstatement of their former king who still lives in Kenya and New York.

Recently, *The New Vision* stated that the king of Rwanda, deposed in 1961 and who originated from a Tutsi family that had ruled Rwanda for almost 900 years said he would return to Rwanda

to be a king if the people wished it (*The New Vision*, Tuesday, 9 August 1994, p.2).

The RPF have taken advantage of their having been in exile which put them in contact with various international agencies which explains why only Tutsis are being interviewed on foreign radios and not the Bahutu.

The result of the above is that the international community including the leadership in U.S.A. has been brought to believe that it is the Bahutu government and its supporters that are killing people in Kigali and Rwanda as a whole almost giving the impression that they, the RPF Tutsi-dominated force, is not involved in mass extermination of human beings. In this regard Melchio Mbonimpa, a professor at the University of Sudbury in Canada has written "Everything we have learnt via the media about Rwanda falls into the simplistic, Western, American world view. That is to say, on one side we have the "good guys", the Tutsi minority represented by the RPF (Rwanda Patriotic Front and its army). On the other side, the "bag guys", the Hutu majority represented as criminal and genocidal (Mbonimpa, 1994). The Batutsi too have been involved in mass killing of Bahutu. A clear indication of this is the number of dead bodies that were thrown into Kagera river that eventually reached Lake Victoria on the Ugandan side. These bodies must have been thrown into the river from the part of Rwanda that was under RPF otherwise there was no way dead bodies killed by *interahamwe* could have found their way from Rwanda Government controlled area to river Kagera. It has in fact been reported that RPF has been arresting and punishing some of its regulars who have been found killing civilian Hutus even those who volunteered to return from Zaire; this may be intended for international consumption.

The lot of the Bahutu was not improved by the presence of the whites who included the government officials, the priests, the business people and even some of the international agencies personnel, nearly all of whom have always sided with the minority Tutsi.

What must be understood is that the current breakdown of law and order which has unleashed the eruption of bloodletting is a

result of centuries of bitterness, of hatred and resentment. It is not a recent phenomenon, it is a result of accumulated misery, frustration, harrassment and brutality meted out against the majority Bahutu by an unpopular aristocracy for centuries. The rage of the Bahutu must be understood in that context. We are not saying that what is happening is right or proper, only that there is a psychological explanation for it; it is not because the Bahutu people are evil, it is deep-seated frustration that has been seeking an outlet without success and all of a sudden finding an unexpected opportunity to say to all and sundry, that enough is enough. Any prospect of the resurgence of Batutsi on the political scene in Rwanda is enough to scare Bahutu out of their wits; and for this reason they have to fight almost to the last man.

What this shows is that the injuries that people have suffered for hundreds of years are not easily healed. The international community and all must be willing to interpret what is happening with understanding and sympathy. Violence in the form of torture, of degradation, of abuse of human rights has been going on for so long that there is need to allow for time before the affected people can recover from centuries of nightmare; scars are too recent not to be sensitive. Exploitation of man by man was maximised to be forgotten just by a lapse of only thirty years. Time is the healer of wounds, and to that there can be no substitute.

The Hutu government that was in Kigali itself is not free from blame. Soon after taking power in 1962, they seem to have embarked on a revenge policy in which the recipients were the Tutsi. First, the government made it mandatory for every adult to carry an identity card called *indangamuntu* on which the owner's tribe was written, so that the Tutsi could be identified not only by bodily features but also by official documentation. There appears to have been discrimination against Tutsi in recruitment in the army and civil service; and general harrassment seems to have been widely practised by those in power and as a result, the several hundred thousand Tutsi who remained in the country increasingly became alienated, frustrated and had no future in a country that they call their home.

The Tutsi, having lost power in 1961, may have been willing to live in peace with their new leaders if there were clear indications that they were welcome to stay, and that the Hutu leaders were willing to forgive past mistakes and oppression the Batutsi had exerted on the Bahutu. The Hutu had their own ideas of retaliation.

This tragedy could have been averted if the Bahutu who have had thirty years of uninterrupted rule over Rwanda had put in place an inclusive administrative programme in which the minority Batutsi could have been reasonably represented. That is why the doctrine of an eye for an eye is bankrupt, if the Bahutu administration had invited the Batutsi in exile to return, and to assure them of fair treatment without undue reference to the past, the chances are that the Tutsis would have accepted that gesture. The trouble is that both Batutsi and Bahutu have a culturally institutionalised trait of distrust of each other so that no group would accept the assurances of the other however genuine they may be. The distrust among the Rwanda and Burundi people has become, as one diplomat from one of these countries put it, the characteristic of Batutsi and Bahutu in Rwanda and Burundi (Maquet, op.cit.). A classic example of this trait and dishonesty is the case of the last King Mwami Ntare V who was invited, in writing, by President Michombero to return home with all assurances of safety; but was “judged immediately and executed” by the President on his arrival in April 1972 (1992 *Information Please Almanac*:161).

This incident is still fresh in the minds of all Bahutu and Batutsi in both Rwanda and Burundi.

The government also appears not to have been serious in its negotiations with the RPF at several fora and at the Arusha accord of August 1993. Procrastination alternated with intransigence as discussions progressed. The Government in Kigali was determined, it would appear, not to share power with RPF.

The fact that since August 1993 till the assassination of the State president on 6 April 1994, nothing had been done in the way of implementing the terms of the Arusha accord is indicative of ambivalence and mendocracy on the part of the administration in Kigali.

One of the several reasons why President Juvenile Habyarimana was reluctant to implement the accord was that he objected to the proposition by the RPF that there be set up a commission to investigate the abuse of human rights in Rwanda which, if implemented, would have implicated not only many of the government and armed forces senior officials, but even the president himself; and in view of this likelihood, the president preferred procrastination.

What is not clear is why Habyarimana and his advisors did not agree to this proposition on condition that it goes further into the pre-colonial history of Rwanda whereby the Batutsi could have no escape route.

There are a number of alternatives that could be suggested in the circumstances: one of these is that the RPF could have approached the government of Rwanda seeking the repatriation of the refugees and their eventual resettlement in Rwanda.

Secondly, if the Rwanda government refused to accommodate their request, the RPF should have approached first, the immediate neighbours, namely Tanzania, Uganda, Zaire and Burundi for intervention on their behalf.

On the part of the government, a number of options were available. The first of these would have been to invite the refugees to come home with a willingness to forgive the past and a willingness to embark on the building of a new Rwanda for all irrespective of race and origin. I am not sure that the Government of the late President Habyarimana did this. The Rwanda Government insisted that there was no land for the people to return to. That Rwanda was too small to accommodate more people; the truth is that there was no room because these were Batutsi.

Secondly, when the RPF attacked Rwanda and their grievances were identified, it appears that the Government of Rwanda did nothing to ameliorate the grievances of the invading group and the masses it represented. Instead, the Government armed civilians for war.

Thirdly, when an agreement of forming a government of national unity in Arusha was reached in August 1993, by the time of the

death of the president there was no indication that the government was in any way going to implement its part of the agreement. To this, I view that the Government underplayed the gravity of the situation at its hands. A quick, prompt and sincere implementation of this part of agreement would have averted the national tragedy and this was most likely in view of the fact that the majority of the RPF who had been born and brought up outside Rwanda were less hypocritical and more willing to compromise arising out of their exposure to more accommodative cultures in areas like Ankole and Buganda in Uganda; and from their participation in NRM struggle.

Lastly, the government in Kigali had a patriotic obligation to embrace all citizens who appealed to it for accommodation. According to this, it was the duty of the government to welcome the refugees with the minimum of hesitation. Any sign of slow step was bound to be interpreted as an unwelcome gesture.

In 1959-1962 I had the misfortune of having to receive the Rwanda refugees in Orukinga, a village near Mabona in South Ankole in south-west of Uganda. My assignment at the time was to inoculate the refugees against common diseases that afflict large groups of people who find themselves crowded together unexpectedly.

The common diseases against which such groups have to be protected include typhoid, measles, whooping cough and tetanus. I remember having had to go to start work at 7.00 a.m. and would not stop till it was dark for me to carry on the treatment. The question in my mind was what was the cause of all this misery. In the camp, I saw with my own eyes of people dying of hunger, disease especially diarrhoea, I saw people getting married while a few yards away others were mourning the death of a father, mother or a relative. I delivered babies as helpless relatives stood by and watched. I witnessed misery, hopelessness and frustration at its worst not knowing that the time awaited me to witness the same among Ugandans. I saw ten people in a line waiting to borrow a cooking saucepan to be able to prepare their own meals. I saw people sleeping even when it was raining and someone was holding an umbrella over my head as I administered injections to hundreds of the refugees. I give this account because

I think it is important for the understanding of what I have already detailed above and for what I want to suggest as option to mutual annihilation.

The people of Rwanda and those of Burundi, just like those in Uganda, have to make up their minds to face reality with openness and willingness to compromise in an attempt to create modern nations.

The Banyarwanda and Barundi people must be advised that the people of today the world over, at least of the majority are not homogenous, they are bound together by constitutional law; the rule of law and not the rule of men. Divergent and even opposed groups of people can be brought under a single administration under the rule of law. Law is the restraint on the powerful, and protection for the minority and the weak. Without law, there is chaos, without legal protection, there is abuse of human rights, harrassment, torture and death.

Secondly, the people of these two countries must be willing to forgive, forgiveness does not mean forgetting, it only rejects the doctrine of an eye for an eye, for if that doctrine has to be followed, vendetta and revenge will never end. Forgiveness also requires a willingness to have a new start; and a new start is or would have been the Arusha accord.

Thirdly, the people of Rwanda and Burundi must once and forever eschew sectarianism; this has been their single cause of their current tragedy. People must be categorised into two criteria, and those are one of good and another of bad people, all other criteria of tribal, racial, or cultural origin must be discarded as primitive and backward.

The people of Rwanda, Burundi and others who are bothered about irrelevant trivia of tribe, race, religion, or economic background, must turn to embrace democracy as the only remedy for all social-economic and political squabbles of modern social organisations. By democracy, I am not referring to cheap definition of multi partism, of official opposition parties, or of regular elections of leaders. By democracy I mean a system of government where the people have

a right to elect their leaders whether it is under political party arrangement or not. Along with the freedom to elect leaders goes the freedom from harrassment from government leaders and their agents. Tolerance is a key element of democracy as is compromise, willingness to be together, to work together, to eat together, to do good and well to each other, and above all to be aware that they are one people, with one future, one hope and one destiny. Any attempt at tribal or ethnic purity is an invitation to racial conflict and violence. Democracy gives the right of decision-making to the majority, but also gives guarantee to the rights, security and freedom of the minority unequivocally. Under democracy the majority should rule, and the minority should be protected but they should also be willing to go along with the leadership of the majority failing which they would be inviting an overwhelming wrath of the majority. As Mandela has noted, "A minority, however vocal, should not be able to frustrate the will of the majority" (Mandela, 1994:219).

The Bahutu and Batutsi in both Rwanda and Burundi must accept the reality that none of either is entitled to harrass the other. Education should have equipped us to value human life and to respect each other for we are all one, one blood, one hope and one destiny.

The situation in Rwanda and Burundi is a good example of the bankruptcy of politics of exclusion. Any political system that seeks to run a nation by excluding another group of people, whether that group is racial, tribal, religious or regional is destined to run into violent opposition. The solution lies in inclusion, or what President Yoweri Museveni of Uganda calls broad-based administration; a system of government in which divergent and even opposed and hostile groups are given a chance to work together in the administration of their nations. We would strongly suggest broad-based administration in Rwanda and Burundi as a solution to current conflict. We would also wish to suggest that a general amnesty would be beneficial in the way of promoting reconciliation than legal retribution. The appeal is for people in Rwanda and Burundi to forgive each other and to agree to start afresh with a programme of power-sharing in order to avoid recurrent outbreak of violence between the two races in both countries.

SUGGESTION FOR RESTORATION OF PEACE

The *Abatunurage b'u Rwanda and Burundi*, after having survived successive wanton wars among yourselves, over generations and in the long history of Rwanda;

Having lost over one million of your people in less than a year,

Having witnessed the mass horrifying acts of violence where in Rwanda, Hutu killed Tutsi and fellow Hutu who were suspected to be Tutsi sympathizers, and where Tutsi also killed Hutu in retaliation; and in Burundi where Tutsi have been killing Hutus;

Having witnessed mass exodus of your people, old and young, sick and disabled fleeing into exile; to live in inhuman conditions, in camps; your children having witnessed the most horrendous acts of inhumanity by watching their parents raped, beaten and killed;

Having observed men turn against their wives and wives against their husbands and killing them simply because they were not of their own race or tribe;

And having seen countless dead bodies of men, women and children in rivers, wells, swamps and in bushes, should, with determination and one spirit resolve to make this social contract for the people of Rwanda and Burundi, The Hutu, The Tutsi, and The Twa which shall be binding to all of you, your children, grand-children and for posterity for the establishment of peace, (Amahoro), Unity (Obumwe), and development (Amajambere).

THE SOCIAL CONTRACT

You, the aforesaid people of Rwanda and Burundi, The Hutu, The Tutsi and The Twa, having agreed among yourselves to make this social contract now proceed to declare that:

1. In order to bring peace, security and tranquility, you denounce once and for ever more sectarianism in its various forms especially in regard to your origin, previous social, economic or political status, religion or political persuasion.
2. You should resolve to live in a republic of free men and women governed and guided by law and not by men.

3. Rwanda and Burundi are for all of you, The Abaturage.
4. There shall never be no superiors and inferiors, no masters and servants, in terms of social, economic and political status. All Rwandans and Burundians are equal in law and in fact.
5. The running of your national affairs shall be entrusted to democratically elected officials taking into account the needs and fears of minority groups; making sure that the minority are adequately represented.
6. You, as the people of Rwanda and Burundi, should resolve never again to seek to solve your differences by force of arms but by appeal to an impartial constitutional court whose decisions shall be binding and final.
7. The recruitment into the civil service, the judiciary, the national army and other state security agencies shall be determined on the criterion of merit with no reference whatsoever to tribe, region, or origin or political affiliation.
8. The administration of Rwanda and Burundi, shall be determined by democratic method at all levels which takes into account the needs for minority representation who would be left out if the democratic practice of one-man-one-vote is applied.
9. For the sake of unity and in order to create conducive atmosphere for peaceful coexistence among yourselves, you must resolve to forgive and forget and temper legal imperatives with political realism in order to establish firm ground for reconciliation which can easily be ruined by the folly of going to war.
10. You should solemnly denounce once and forever, all attempts at mutual annihilation, which has brought untold misery and suffering to every Rwandan and Burundian in your own life-time.

CHAPTER 8

CRIMINAL HOMICIDE IN WESTERN UGANDA*

For some time, there has been an unusually widespread outcry about the increase of violence in Eastern Africa. Politicians, civilians and social scientists all speak of a wave of violence which has swept the region all the way from Kenya, Uganda to Tanzania and even to other parts of Africa. In Nigeria, the military government has introduced public execution by shooting in an attempt to end this wave of violence. In 1968 Uganda Parliament passed a bill to hang those criminals who rob with violence. In Kenya the same measures have been debated now and again in Parliament. The national newspapers are full of news of crimes of violence. Banks are robbed in daylight; bar and restaurant owners and their patrons have been forced to give money to robbers at gunpoint. Cashiers and accountants moving cash from one bank to another have been waylaid and machine-gunned, private individuals in and around Kampala have been attacked and slashed, shot or strangled to death for money. The Government of Uganda has repeatedly called upon the people concerned to stop this sort of terrorism; but robbers go on with their activities. Bodies of dead people are found thrown in drains and rivers almost every day. Violence seems to be everywhere. The general feeling in Uganda especially in cities and large towns is that of insecurity. But people do not like to live all their lives in insecurity; hence there has been this urgent call for "something" to be done to stop this wave of crime; especially the type of robbery with aggravation which is locally known as *Kondo*. The Kondos generally operate in groups of from two to as many as twenty, usually in possession of firearms and other lethal weapons such as machete, spears, and heavy clubs. But very little if any, is known about the structural organization of Kondos.

This paper, which deals with all types of criminal homicide does not discuss *Kondoism* because this particular type of violence is not so prevalent in the Western territories of Uganda. The discussion is mainly limited to the general nature of the crime, the individuals

who get involved as offenders and victims, the circumstances in which violence tends to erupt between people and the motives in these violent slayings; and other related contributing factors to the whole phenomenon.

SETTING

The study was carried out in 1969-1970 in the three districts of Ankole (population 855,155), Kigezi (population 642,300) and Toro (population 571,006) all of Western Region of Uganda. The people of these areas are united by bonds of language, and general cultural characteristics; but tend to exhibit certain sub-cultural traits some of which explain some criminal behaviour patterns (Wolfgang and Ferracuti, 1967). Each of the three districts is inhabited by more than one ethnic group, and in the case of Kigezi and Toro, there are also more than one linguistic groups. In Ankole the two groups are the Bairu agriculturists who are the indigenous Bantu stock, and the Bahima cattle-keepers who are descendants of Hamitic people who invaded the territory around the sixteenth century (Seligman, 1968:62, Oberg, 1940). Kigezi, the smallest district of 2,000 square miles with a population of more than a half million people is inhabited by three main ethnic groups of Bakiga, Banyarwanda and Bahororo; the latter have many cultural characteristics in common with the Bahima of Ankole. While the Bakiga and Bahororo speak a common language which is more or less the same as that spoken by the Banyankole, the Banyarwanda speak Runyarwanda, of the Republic of Rwanda in the South. Cultural differences between Bakiga and Bahororo on the one hand, and Banyarwanda on the other, are quite salient. The Bakiga are land cultivators, the Bahororo are on the whole, a cattle people while the Banyarwanda practise mixed economy of cultivation and cattle-keeping. Toro, of the three districts, is the most mixed up. The dominant population is made up of Bantu who have mixed up with the Hamitic people. Then there are the Bakonzo and Bamba peoples on the slopes of mountain Rwenzori; and a small group of people called Batuku who live in the Semuliki valley on the border with the Republic of Zaire. In each of these districts there is a mild conflict which hardly ever flares up into open confrontation with the exception of Batoro and

Bamba-Bakonzo among whom there has been prolonged fighting which has resulted in loss of lives. This was due to the Bamba-Bakonzo demand for a separate district.

DATA

The source of data was the court files. Criminal homicide files were collected for the years of 1955 to 1968 from the districts court offices at Mbarara (Ankole), Kabale (Kigezi) and Fort Portal (Toro). All court-recorded criminal homicide case files were read to collect the required data regarding the offence, the offender, the victim, the circumstances leading to the crime and adjudication. In all, there were 138 cases from the Ankole files; 98 from Kigezi; and 100 from Toro. Of Ankole's 138 cases 151 people were involved as offenders and 145 victims. In the Kigezi sample of 98 cases, there were 98 offenders and 101 victims. In Toro where there were 100 cases, there were 108 offenders with 101 victims (Mushanga, 1970).

In a four-year period 1965-1968, the cases reported to Police were as follows:

Area	Population	1965	1966	1967	1968	Total	Annual Rate	Rate per 100,000 p.a.
Uganda	9,526,237	1537	1696	1650	1894	8471	1694	17.8
Ankole	855,155	68	57	76	90	364	73	8.5
Kigezi	642,300	24	30	32	49	169	34	5.4
Toro	571,006	88	81	67	61	371	74	13.0

The explanation for the difference between reported criminal homicide to police and the data from courts is that there were numerous reports of homicide to the police in each calendar year which, on investigation, turn out not to be homicide at all and therefore, do not get to the courts; others turn out to be suicides, while others turn out to be deaths due to natural causes.

Compared to the criminal homicide picture of Uganda as a whole, the districts of Kigezi and Ankole appear to have the lowest criminal records in the whole country. Taking the four-year period,

the three areas with the highest reported criminal homicide cases were Karamoja, Bugisu and the metropolitan city of Kampala.

The figures for the four-year period were as follows:

Area	Population	1965	1966	1967	1968	Annual Rate	Rate per 100,000 p.a.
Karamoja	298,089	113	204	105	101	130	43.9
Bugisu and Sebei	486,241	199	173	154	180	176	36.2
Kampala City	331,889	82	99	109	143	108	33.3

These figures show that on the whole, the three Western districts of Uganda have relatively lower rates of criminal homicides reported to the police. Toro with a population just about a third of that of Ankole and Kigezi put together has a criminal homicide rate almost twice as much as the two districts of Ankole and Kigezi combined. The data also show that Toro has a much higher rate of reported aggravated assault than Ankole and Kigezi put together.

The rates of aggravated assault cases for the four-year period were:

Area	1965	1966	1967	1968	Annual Rate	Rate per 100,000 p.a.
Uganda	5363	11177	14683	18438	12313.6	130.3
Ankole	61	190	546	527	331	38.7
Kigezi	95	233	424	621	343.3	53.5
Toro	576	736	1025	1008	836.8	146.3

Again, according to these figures Ankole and Kigezi show the lowest rates of aggravated assault in the whole of Uganda, while the City of Kampala with the rate of 480.9 per 100,000 per annum and Bugisu and Sebei with a rate of 197.8 per 100,000 per annum are the two areas with the highest reported aggravated assault in the whole country. Explanations for these wide range differentials is impossible without empirical study covering both the high and the low rate areas.

FINDINGS

SEX AND AGE IN CRIMINAL HOMICIDE

The analysis of data was based on Wolfgang's study of criminal homicide in the city of Philadelphia, Pennsylvania, U.S.A. between the year 1948 and 1952, with some modification. In the present study which includes 569 criminal homicide offenders, there were 506 males which is 88.7 per cent as compared to Wolfgang's findings of 511 out of 620 offenders which is 82.8 per cent. (Wolfgang, 1966). This finding confirms Professors Sutherland and Cressey's observation that "The crime rate for men is greatly in excess of the rate for women – in all nations, all communities within a nation, all age groups, all periods of history for which organized statistics are available, and for all types of crime except those peculiar to women, such as infanticide and abortion". (Sutherland and Cressey, 1970, Wolfgang, 1966). Sutherland and Cressey reported that death certificates of 821 homicides in ten of North Carolina counties in one eleven-year period, indicated that males committed 88 per cent. (Sutherland and Cressey, *ibid.*). In the present study covering the western region of Uganda, the district of Toro had the highest male criminal homicide rate. Of the 108 criminal homicide offenders, there were 103 males or about 95.4 per cent. This is followed by Ankole with 130 male offenders out of 151 or about 86 per cent, and Kigezi had the lowest male offender rate with 71 out of 98 or about 72.5 per cent. These findings establish that crimes of violence are chiefly committed by males and that females when involved are more likely to be victims rather than offenders.

The data were examined to verify Verko's static law; according to which societies with high frequencies of crimes against life, have low women rates and high women rates in societies with low frequencies of crimes against life (Verko, 1951:55). Kigezi, over a period of four years (1965–1968), had one of the lowest rate of reported criminal homicide in Uganda. The annual reported rate for Uganda as a whole over the four-year period was 1994 and Kigezi rate was 34. The annual rate per 100,000 of the population over the four-year period was 17.8 for Uganda, 13.0 for Toro; 8.5 for Ankole,

and 5.4 for Kigezi. While a little over 95 per cent of the offenders in Toro were males, and 86 per cent in Ankole, the male rate for Kigezi was 72.5 per cent. This means that females contributed about 4.7 per cent in Toro, about 14 per cent – Ankole and 27.5 per cent in Kigezi. The Veli Verkko's static law says that a society with a high frequency, such as Toro, will have fewer females participating in crimes of violence against life, and vice-versa. This is shown in the following table.

	Toro	Ankole	Kigezi	Total
Number of Offenders	108	151	98	357
Annual Rate per 100,000	13	8.5	5.4	8.9
Male Offender Rate	103	130	71	304
Female Offender Rate %	4.6	13.9	27.5	–

The Verkko static law which relates female higher rates to generally lower frequencies is verified by Kigezi with a comparatively low criminal homicide rate but a very high frequency rate of female participation in criminal homicide. Females too tend to have low frequency rates even when mental aberration is considered. Of the 33 persons who committed the offence of homicide in the sample as a result of mental disorders or mere diminished responsibility, (Uganda Penal Code, section 188A) only 3 or 9 per cent were females. This would seem to suggest that either females do not suffer from mental disorders as frequently as do men, or that if they do, they infrequently express their mental disorders in violence. But it may be suggested here that criminal homicide is a crime that tends to be perpetrated in cultural patterns and that even the mentally ill people, may in some cases, display cultural patterns in the use of violence.

The study shows that women are more likely to be victims than offenders. Females make up about 11 per cent of offenders as against 23.1 per cent as victims of criminal homicide. Males, on the other hand, killed each other almost three times as frequently as they killed females; but females killed each other very infrequently. Thus, males tend to kill males, secondly males kill females, thirdly when females

kill, they tend to kill males in the first instance, and the least frequent killing is that of female killing female.

The explanation for these findings is a sociological or socio-cultural one. Men kill men perhaps because of the frequency, duration and intensity of face-to-face interpersonal interactions in which most men tend to get involved. A man is not expected to be found in the company of women, but of fellow men. Men meet in groups, tend to drink in these groups, they engage in disputes over property and property rights; they disagree on economic and political affairs; they compete for women; they are culturally expected to demonstrate masculinity in whatever they do; they must individually appear to be stronger, superior and dominant in relation to other men. These are very dangerous prescriptions which very often lead to altercations and exchange of blows and sometimes in homicides. Women tend to be victims because of their relative physical weakness, and their inferior status in this society. The explanation for a high frequent rate of criminal homicide among the females in Kigezi, (Verkko's Law) is to be sought in cultural definitions; especially the family structure and domestic arrangements. Kigezi, with a low homicide rate, has high frequency of females as offenders. Kigezi has the highest rate of polygamous marriages almost in the whole of Uganda (Mushanga, 1970). Polygamy is very infrequent in Toro. Ankole has a higher polygamy rate than Toro, but less than Kigezi. In Kigezi and to a lesser extent in Ankole, traditionally polygamy is the ideal type of marriage. The husband in every polygamous family is a man in demand; he is expected to treat all his wives (in some cases there may be as many as ten wives to one man) with equality and fairness. Violation of these expectations leads to ill-feelings and conflict between the wives among themselves on the one hand, and between some of the wives with their husband on the other. The conjugal unit needs not only economic provisions for its stability but also some personal and even psychological affective attachment and where these are absent, potential conflict situations tend to erupt. In Kigezi and also in Ankole, marriage is a group and not an individual affair. Any conflict that may exist between a man and his wife is most likely to affect other members of the extended family; and therefore more people than the married couple are affected by whatever conflict

that may exist. In Toro marriage is a very simple affair. Marriages are contracted as simply as they can be dissolved. Brideprice is low compared to that of the Bakiga (the people of Kigezi) and where brideprice is low, and the statutory laws regulating marriage and divorce are not firmly enforced, separation and dissolution become frequent. But where brideprice is high and divorce or separation is socially disapproved, conflicts leading to violence may tend to be frequent. Again, the Bakiga males tend to spend more time at home than the Batoro. They do as much cultivation as their wives, they tend to drink in kin groups within the extended family. This means that men spend more time with their wives during which disputes erupt and if females do not become victims they become offenders when they attack the husbands or other members of the polygamous-extended family.

AGE

One important finding from this study is that the very young and the very old infrequently commit criminal homicide. They are most likely to be victims than offenders. Wolfgang has written that "In general, those who kill are younger than those who are killed." (Wolfgang, *op. cit.*). The most dangerous age-group from which slayers come from is 25-29; followed by 20-24 and then 30-34. The rate falls at the age of below 15 and above 49.

Owing to inadequate or total absence of entry of age on Police charge sheets, and also due to the general use of the word "adult" both in Police and post mortem reports, the age of victims was not analysed. But of the cases in which age was entered on the forms, the ages of 25-29, 35-39 show the first and second frequency victim rates, than those between 30 and 34, followed by those between 40 and 44. Cases in which the victim was an elderly man or woman were infrequent and involved some types of robbery.

WEAPONS AND METHODS OF KILLING

Of the 501 cases of criminal homicide, 90 were due to the use of spears, about 19 per cent. This was the largest number by use of this weapon. A stick was used in 83 cases, a machete in 52 and a

knife in 33 while 28 cases were due to beating. The use of firearms was responsible for only four cases out of the 501. Compared to Wolfgang's study in which 33.0 per cent were shot, and Voss and Hepburn's study of criminal homicide in Chicago in which 49.5 per cent of cases were due to shooting, (Voss and Hepburn) the present study shows that people will use whatever weapon is available to inflict death upon others. Culturally defined weapons for defence or for offence are preferred. The carrying of sticks and spears was hypothesised as a contributing factor. The carrying of spears and sticks among the Central Bantu is a cultural trait. A man does not move about empty-handed. This may have its explanation in a historical perspective. During the times of feud and inter-tribal or inter-clan conflicts, it was very necessary to carry something for protection if not for offence. Thus men carry spears, sticks and even pangas (machete) while women do not, as defence was never a woman's role. The rest of the listed weapons range from hoes, axes, arrows, hammers, to stone-throwing, wooden-spoons, anti-hills, pieces of iron, and other domestic objects such as bottles, sickles and pestles. This shows, as has just been mentioned, that in a heat of temper, a person will seize whatever is available to inflict death. It is a commonly heard expression in Runyankole language of the western people of Uganda, "*Haza rwata ugu mwitseki!*" which if translated literally means "With what shall I kill this rascal!" This is uttered in extreme anger when the angry man is furious and has nothing handy to use to inflict injury on his adversary. It is in such agitated emotional states that a person picks up whatever is near him to inflict injury, pain and death to his opponent. The infrequent use of firearms shows that the fewer the killing instruments in circulation, the lower their contribution to homicide. With more firearms in society, we expect the number of criminal homicides perpetrated by the use of firearms to go up and *vice versa*.

When no weapons are available, human beings will use physical force to subdue their opponents in open combat. In this study a number of homicides were committed by use of force; such as throttling which involves the closure of the air passages with hands so that the victim dies by asphyxia (*okuta aha munigo*). Other methods include kicking, pushing, beating the victim to death, and in four

cases, the victims died of poisoning. The selection of a weapon or method of killing a human being depends largely on the motive and the situation in which conflict mounts. The greater the degree of vexation, the more the offender is likely to get hold of the more deadly weapons such as the spear, the gun, etc., but this is to be related to the time and emotional state of the offender or of the victim. It is unlikely that a person who is suddenly provoked will use poisoning as a method of getting rid of his enemy. Clinard and Quinney have categorised murders into those which occur during sudden outburst of anger and those due to sub-cultural factors (Clinard and Quinney, 1973). This means that the use of poison is an indication of the presence of *Mens rea*, while the use of wooden stools in a bar or restaurant may indicate that the killing was done in a heat of passion lacking premeditation. The use of physical force is not a very popular method of choice to inflict death. This is because it is not in most cases, humanly easy for a person to choke another unaided; but when this happens, it means that the victim was at a greater disadvantage of one type or another. Either the victim is young, or quite old and senile, or physically and mentally weaker than his slayer.

THE VICTIM-OFFENDER RELATIONSHIP

Hans von Hentig in his study in Germany showed that about one-third of all homicide victims are members of the offender's family (Von Hentig, 1967). Wolfgang's Philadelphia study showed that "categories which involve primary contacts (close friends, family member, paramour, and homosexual partner), when combined, constitute 65 per cent of all victim-offender relationship". (Wolfgang, *op. cit.*).

The present study shows that of the 501 victims of criminal homicide, 159 or just about 32 per cent were members of the slayers' families. Within this context, wives were victimised more frequently than any other group; they were 43 or about 27 per cent of the 159 victims of the primary relationships. All relationships were categorised into primary, secondary and tertiary depending on frequency of contact and determination of blood relationship and close relationship. Of the 501 victims, 367 were related to

their slayers, which is about 73 per cent. Only in homicides that resulted or were perpetrated in the course of robbery are victims and offenders not likely to be related or acquainted to one another.

The finding that people in general, do not kill strangers except in cases of robbery and other felonies in which either the gain is the motive or to escape detection, is of particular interest. It reveals a very strange contradiction. In most of these Bantu societies, people are afraid and are suspicious of strangers or of those with whom they are not related and especially those they do not know. Thus people think they are safer when they are with their friends and relatives, and yet it is through these inter-personal relationships that one is most likely to meet his slayer. In one case in the district court of Mbarara, Ankole, the accused had this to say to the judge: "I did not intend to kill him, he was not a man of our area; I did not know him".

MOTIVES

Professor Marshall B. Clinard has observed that, "Nearly all criminal homicide, like assault, is an outgrowth of personal disputes and altercations, some immediate and some long-standing in nature" and that "Relatively few of these offences are associated with the commission of crimes – such as robbery. The acceptance of the use of violence to settle disputes is related to general cultural patterns". (Clinard, 1968).

The motive as assigned to a violent death is a subject of great conjecture. Such assignment as "altercations", "drunken brawl", "domestic dispute" and "trivial altercation" are very difficult to analyse. Altercations arising out of beer party brawls head the long list of motives with 109 out of 501; then domestic altercation 65 out of 501; provocation 51. The question of motive is a difficult one because of legal indifferences towards the question of motive; because motive is not material to criminal responsibility unless it is expressly declared to be so, many court files do not show the motive in homicides.

Of particular interest is the role the victim plays in bringing about his own demise. This is victimology, as defined by Carlos F.

Gonzales as the active or the passive role the victim plays in the generation of conflict (Gonzalez, 1965). In any criminal homicide act, either the offender or the victim may be solely, partially or not at all responsible for the crime. It is in this respect that victimology may be defined as provocation.

The 'gain' motive contributes a substantial percentage to criminal homicide figures. In the sample there were 49 cases or about 9 per cent in which robbery or stealing was the motive either of the victim or of the offender. There is, in and around Kampala, a type of robbery with violence which is commonly known as 'kondo'. This type of violent robbery has caused a lot of unrest, concern and suffering to many people in Kampala and the surrounding areas. It was because of this that in 1968 the Uganda Parliament made the death penalty mandatory for armed robbery (Penal Code (Amendment) Act 1968).

Mental disorder as an element in the causation of homicide was found to account for about 8 per cent (43 out of 501). These cases range from certified schizophrenics to those with mere diminished responsibility. Some of the more or less frequent 'motives' for homicides include sexual jealous and rivalry, dispute over land ownership, witchcraft, and simple quarrels. Alcohol, as is known all over the world, is to be noted in the incidence of violent crimes. Alcohol was present in 36.98 per cent of cases.

TEMPORAL PATTERNS

Criminologists and other researchers have, in the past, related violence to climatic conditions of the country, and that crimes against property increase while crimes against the person decrease with distance from the equator. (Sutherland and Cressey, *op. cit.*). But recent scholars find no correlation between weather fluctuations and violence. Wolfgang found no constant patterns; Dublin and Bunzel found that the frequency of homicide does not vary with seasons. The present study shows no relationship between the season or month of the year and criminal violence; and there is no correlation with the date of the month. Wolfgang's study in Philadelphia, and Verkko's study in Finland show associations between criminal homicide and certain

week-days. These relationships are characteristic of predominantly “working” societies, i.e., societies in which the majority of the people are employed and are working for wages and salaries. But in a society where the bulk of the population is not employed for wage-earnings these associations are absent. There are no marked differences between work-days and rest-days. Because of lack of entries, it was not possible to look for associations relating to time of day and even whether the offence was committed during the day or at night; and even for the date, the police forms usually do not show the exact date, the forms read that the crime was committed “on or about” such as such date.

CONCLUSION

Criminal homicide in Uganda, and in East Africa as a whole is believed to be on the increase. This increase has been especially noticeable in the criminal homicides involving the use of violence to rob. Many people have been calling for mandatory death penalty for armed robbery. Others have been advocating immediate putting to death of all types of thieves to the extent that thief-killing has become almost a common spectacle which if not checked may become another social problem.

CHAPTER 9

CRIMINAL HOMICIDE IN EAST AFRICA: A PROFILE*

The profile of criminal homicide in the Eastern part of Africa is constructed from two studies that were conducted by the author in Uganda and Kenya in 1969 and 1975 respectively. The Ugandan study had made use of court files at district courts in Western Uganda which included all criminal homicides including manslaughter, murder and infanticide. The study in Kenya differed from the Ugandan study in that information regarding the homicide was obtained directly from the offenders of criminal homicide who had been convicted by the courts and were serving prison sentences or awaiting execution at Kamiti Maximum Prison just outside of Nairobi (Mushanga, 1974, 1976).

The profile is constructed from the general characteristics of the persons involved in the episodes of homicide as offenders or victims and also from the social situations in which criminal homicide as the ultimate human violent encounter takes place. The profile is therefore an inventory of the common attributes of offenders and their victims, the value of which is to alert an observer of a social interactional process which is most likely to erupt into violence in which one or more persons could end up being killed (Mushanga, 1972).

The profile also helps us in indicating the socio-economic trends and changes that may be associated with criminal violence in general and criminal homicide in particular. The replication of these research studies could be very useful inventories for comparative criminology in Africa. Criminal homicide, like crime in general, changes not only in terms of the rate of its occurrence but also in terms of its *modus operandi*, and motives as well. Equally significant is our endless quest for the theoretical explanation of these crimes especially when the underlying motive is not financial gain or when they cannot be explained away in terms of mental abnormality or diminished responsibility.

Numerous studies carried out in other parts of the world, notably in the United States of America and Europe have, in general, shown that criminal homicide is a universal phenomenon; that it varies from one region of the world to another, and from one country to another and from one part of a nation to another and even from one part of a city to another. The variations are defined in terms of who kills who, who gets killed, the methods used in killing, the social contexts in which killing takes place, and also in terms of frequency and even the weapon preferred in the act of killing; and above all, the motives for the homicide; societal response to homicide and the criminal justice system handling of these cases (Mushanga, 1975; West, 1965, Wolfgang, 1966).

Homicide in East Africa is criminal or unlawful if it is a result of malicious intent or negligence of another person. Criminal homicide may be called a manslaughter, a murder or infanticide. The law in East Africa stipulates that death must occur within a year and a day for it to be a criminal homicide from the day the act from which the person died was committed.

A homicide is criminal if it is not a result of a judicial execution, or due to misadventure, accident or excusable; and when it is intentional or deliberate and committed with what is legally referred to as malice aforethought or guilty mind. *Mens rea* is the crucial ingredient in the determination of criminal responsibility in cases of homicide (Laws of Uganda).

Cases of criminal homicide in East Africa cover murder, manslaughter and infanticide. Murder in East Africa is not divided into first or second degrees as is the case in many other jurisdictions. The law of criminal homicide also requires, in addition to *mens rea* that the offender be a man or woman of sound memory and of the age of discretion, which means that people of unsound mind or with diminished responsibility under the M'Naghten Rules, and those under the age of legal maturity may not be accused of murder. The M'Naghten Rules state that a person is not criminally responsible for his acts when committed at a time when he was suffering from a mental disorder that rendered him incapable of knowing what he was doing, or if he knew, did not know that what

he was doing was wrong (Wolfgang, 1967:31). Present-day law in East Africa provides that a person under the apparent age of twelve years is not criminally responsible for an act or omission, unless it is proved that at the time of doing the act or committing the omission he had capacity to know that he ought not to do the act or make the omission. The law also forbids people below the apparent age of eighteen to be sentenced to death as well as expectant and nursing mothers. Infanticide does not carry the penalty of death (Laws of Uganda, *ibid.*).

In Kenya, under the colonial rule, the age of majority was also defined by race in relation to criminal responsibility. The majority Act (cap.33) determined the age of majority for "Europeans, and all non-African males and females other than Europeans". The effect of this Act was that Europeans under the age of twenty one years were defined as infants, and Asians under the age of eighteen were infants; the Act did not apply to Africans. After independence, the Act was amended to apply to all citizens of Kenya irrespective of their colour or racial origin so that all that were under the age of twenty one were infants; and in 1974, the age of infancy was reduced to eighteen years (The Laws of Kenya, cap.33).

In Kenya as well as Uganda, and indeed in Tanzania, the law stipulates that a murder or a manslaughter can be committed by a citizen against another citizen, a citizen against a non-citizen, a non-citizen against a citizen and a non-citizen against a fellow non-citizen, and the court has competent jurisdiction over all these cases.

The criminal law of Kenya, Uganda and Tanzania does not consider the destruction of a child in the womb as infanticide, or when it is killed in the process of being born by its mother. For a newly born baby to be a victim of murder, it must be wholly expelled from the body of its mother and it must have lived an independent life from that of its mother. The independent existence of the baby is determined by independent circulatory and respiratory systems. Illegal abortion is not murder, nor is it infanticide. Infanticide itself is not merely defined as the destruction of a newly-born baby, but that the destruction must be accomplished by its own mother and not by any other person. The killing of a newly born baby by any other

person other than its mother is criminal homicide which could be murder too. This definition of murder is common law in the British legal system. For example, a British judge ruled that:

If a person intending to procure abortion does an act which causes a child to be born so much earlier than the natural time that it is born in a state much less capable of living and afterwards dies as a consequence of its exposure to the external world, the person who by her misconduct so brings a child into the world and puts it merely into a situation in which it cannot live is guilty of murder.

Criminal homicide, just like all other types of crime, is on the increase in the whole of East Africa; and in Uganda, since the beginning of the break-down of the rule of law in 1966, the number of people that have lost their lives in political killings and extrajudicial executions is reckoned to be well over one million. All murders carried out by state agents, whether these be military, police, or party activists are and must be defined as criminal as long as they are not executions sanctioned by courts of law. The killings that have been carried out by Amin's State Research Unit, and Obote's National Security Agency or NASA through what was called "The Scotched Earth Policy" that reached its climax during the bloody rule of Milton Obote which lasted from December 1980 to the middle of 1985 when the regime collapsed. Genocide as a deliberate mass extermination of a group or part of a group of people differs quite markedly from criminal homicide and as such is not being discussed in these paragraphs. Genocide differs from common criminal homicide in that it lacks the cultural context in which the killings take place; and its perpetrators do not conform to common characteristics of homicide offenders or victims.

Nearly all studies of criminal homicide that have been done in many parts of the world show that males outnumber females in the perpetration of criminal homicide almost to the level of nine to one in some cases. Males too outnumber females as victims of homicide – thus males generally kill fellow men. On the other hand, women kill men more than they kill fellow women (Wolfgang, *op. cit.*).

When men kill other men, they tend to kill those they are very closely acquainted with such as relatives, friends and workmates. But

when they kill women, they kill their wives, women friends or sexual partners. When women kill men, they kill their husbands, men-friends or sexual partners. When men kill other men whom they are not acquainted with, these are usually killed while the offenders are engaged in other criminal activity, usually in robbery with firearms or other weapons. It is very rare for men to kill strange women, and even rarer for women to kill strange men and almost unheard of for women to kill strange women. The implication of this is that homicide is an off-shoot of close social interaction which takes place in a cultural context. 76% of the victims, (Mushanga, 1974). These observations appear to be in agreement with what other researchers have established in other parts of the world.

In a study of criminal homicide, in Philadelphia, U.S.A., Marvin Wolfgang found that of the 620 offenders in his sample, males were 511 or 83% (Wolfgang, 1957), and in their *Principles of Criminology*, the 8th edition, Sutherland and Cressey stated that:

Sex status is of greater statistical significance in differentiating criminals from non criminals than any other trait ... The crime rate of men is greatly in excess of the rate of women in all nations, all communities within a nation, all age groups, all periods of history for which organised statistics are available, and for all types of crime except those peculiar to women, such as infanticide and abortion (Sutherland and Cressey, 1978).

The incidence of homicide under normal circumstances occurs in well defined social contexts and as such in the majority of cases, involves people who are known to one another and only rarely does it involve total strangers. In this connection, a study by Hans Von Hentig in the Federal Republic of Germany showed that about one third of the homicide victims were members of the offender's family (Von Hentig, 1967). Marvin Wolfgang in a study of criminal homicide in Philadelphia U.S.A., found that categories which involved contacts such as close friends, family members, paramour and homosexual partner, when combined, contribute 65% of all victim-offender relationship (Wolfgang, 1967). Considering *Ego* to be the husband, his family of orientation includes his father, mother, brother and sister while that of his procreation includes wife, son and daughter. Homicide does not occur at random to any of these

relational categories. In the African samples, the wife tends to be the preferred victim while daughter is the least victimised member of these close consanguineous and conjugal relatives.

In South Africa, intra-ethnic homicides have been going on for some time and in recent years, have tended to increase as the demand for independence has intensified. In these cases, they are Zulus killing other Zulus or Bantu killing Bantu and only rarely do Bantu kill whites or coloured people. This phenomenon has been observed in the United States of America where the majority of homicide cases involve Black Americans killing Black Americans, although the Black Americans generally have an uneasy relationship with white Americans originating from the institution of slave trade and inhuman treatment meted out to people of African descent by whites, this relationship rarely explodes into homicides, just because the two antagonistic groups do not or rarely get involved into close or intimate human relationships, such as marriage, business, love triangles, drinking, cooperation and competition. The mutual disharmony between the racial groups is their insurance against criminal violence between them. These findings would suggest that homicide in general is not due to hatred between groups or peoples, however intense this may be, but a result of social interaction and cultural definition of stress situations that require violence for their resolution.

One other factor that is worthy of consideration is the age of the people involved in criminal homicide. Almost all studies done all around the world indicate that the very old, and the very young rarely ever get involved in criminal homicide. These studies show that people who are 70 years or older or 10 years or younger, when they appear in cases of criminal homicide, often appear as victims rather than offenders. These studies, including those done in Africa, show that homicide in general, is a crime committed by young adults, whose victims are usually older. The age at which the people are prone to kill others is that between 20 and 29, and during this age period, 25-29 is the most critical (Mushanga, 1976). Clinard and Abbott, after a study of crime in Uganda concluded that young males commit most of the crimes throughout the world, and that this

is particularly so in less developed countries where the population consists of young people (Clinard and Abbott, 1973).

In the Kamiti sample 77% of the criminal homicide offenders were aged between 18 and 30 years at the time they committed the offence of homicide (Mushanga, 1976). In the Ugandan homicide, the older people have tended to appear as victims in cases of robbery with aggravation because they are suspected of keeping large sums of money in their houses, so they become targets of *Kondo* attacks and get killed as they try to defend their property.

Since 1990, there has been a general increase, at least as can be noted from newspapers, of young people committing homicides in North America. Children as young as 8-10 years are reported killing each other or their parents, and grand-parents by using firearms. In many schools, children have been found carrying weapons such as knives and hand-guns. In 1995, the state of Texas legally allowed the carrying of hand-guns by adults as long as these remain concealed, and the legislation is likely to be adopted by youth and small children.

Crime in Sub-Saharan Africa is bound to remain high or even to increase because of the relative youth of the population. A recent UNDP report on Human Development Index has shown that all countries in this region have large percentages of young people. Kenya leads in this respect with 51% of its 23 million people being under 15 years of age (UNDP Report, 1990).

Criminal homicide in Africa differs from that committed in other parts of the world in respect of the method of committing the offence. The commonly held household tools feature very much in these homicides. These include pangas, sticks, spears, hoes and the like. This is in contrast to what we find in other countries; for example, firearms constitute upwards of 75% of all criminal homicide cases in the United States of America. Recently, in East Africa, firearms have appeared to be on the increase especially in cases of homicide resulting from robbery with violence. As more and more arms find their way to the general public, we would expect the incidence of homicide to involve more use of these as time goes on. In the case of Uganda where hundreds and hundreds of thousands of guns including submachine guns were abandoned by the fleeing armies

of Amin and Obote, the pattern of homicide has changed showing more frequent use of firearms even in normal homicide situation such as domestic quarrels and the like.

In the Ugandan study of 501 cases of homicide, the use of firearms was found to be in only four cases or less than one per cent. Similar results have been reported by Fluehr-Lobban in her study of homicide in the Sudan and also by Leigh Bienen in her study of the same phenomenon in Western Nigeria. Bohannan in his study of homicide among the Abaluyia of Western Kenya and Wilson who did a similar study of homicide among the Jalu of the same region do not mention the use of firearms among these communities; this too applies to studies done by the Fallers in Busoga and La Fontaine in Bugisu (Bohannan, 1960). The gun or firearm was not used in these homicide cases simply because people did not own them, they had not found their way from soldiers to civilians as they now do.

In a somewhat interesting study in Switzerland, Clinard found that firearms were rarely used in crimes of violence to settle personal disputes or even for robberies. This finding is interesting in that firearms are easily accessible all over the country due to the law that requires every male aged 20 and 50, and 55 in case of officers to remain in the army and keep their guns at home. This, in practice, means that every Swiss family has firearms at its disposal and yet these weapons do not appear in Swiss criminal homicides as frequently used weapons (Clinard, 1978).

The sociological explanation of this behaviour is that the Swiss, unlike the Americans, the Colombians, and the Italians do not define firearms as instruments of settling interpersonal disputes, but as instruments of war, and as such people do not resort to their use in conflict interaction; they are purely for defence of the nation and not for offence.

One other factor that needs our attention is alcohol. Alcohol plays a leading role in the genesis of acts of violence which often lead to homicide. The role of alcohol in homicide and even in suicide has been noted in a number of studies all over the world. In many cases, alcohol is present either in the offender or in the victim, or in both, or in the homicide situation. In Africa, perhaps more so than in

other cultures, alcohol plays a leading role when and where people gather for a social function whether this happens to be a betrothal, a marriage, a funeral, a court, a celebration of a birth, or death, or a hunt or harvest; there is always alcohol to facilitate proceedings.

The consumption of alcohol was restricted by the colonialists especially in the English-ruled parts of Africa, and this was reinforced by the churches especially the Protestant and Mohammedian churches but otherwise many cultures permitted its wide use in mainly all social situations and unfortunately very often these ended up in the eruption of violence where some people lost their lives. Fluehr-Lobban found that alcohol played a role in the genesis of violent homicide in the Moslem Sudan as did Mushanga in Uganda, Asuni in Nigeria and others. The worst of these are the new brews of kasese and *kagogo* or *enguli* in Uganda, *kachasu* in Zambia, *changaa* in Kenya, *ogogoro* or *timashenko* in Nigeria; all of which have high alcohol content.

One final question that faces the African criminologist is that of motive in African homicide. One Western researcher set out to find out whether Africans kill each other for the same reasons as non-African people (Bohannan, 1960). Apparently Africans kill each other almost for the same reasons as whites, Asians and others do. Apart from cases of homicide which occur in the process of committing other felony like robbery or cattle rustling, the bulk of these homicides are committed in social interactional processes characterised by conflict. Conflict itself is a constant attendant of nearly all human interactions as when people buy and sell, borrow or lend, or perform tasks together, or when they dispute over property rights and obligation, love and marriage, or when they engage in politics and other socio-economic activities. Participation in human activities engenders conflict which results from competition and frustration.

Criminal homicide in Africa therefore occurs as a result of interpersonal interaction characterised by conflict, jealousy, disputes, envy, hatred, competition and greed. The conditions of social existence create situations that demand solution by the elimination of opponents. This means that human beings do not just kill one

another for the sake of it; there is always a motive whether this is conscious or unconscious. Interpersonal relationships are social situations in which two or more people interact in the course of their daily lives as when they engage in beer parties, in domestic affairs, in love affairs, in economic activity and so on. In many cases, the motive for homicide is not explicit as when two friends start a quarrel for no reason at all especially when they are at a beer party. In such cases the role of alcohol in the genesis of conflict must be noted. In fact, as we mentioned above, alcohol is found to be present in a large percentage of these homicides. In these cases, motive of the homicide is never explicit. Drugs too have been found to be associated with violent crime in some parts of Africa.

From what we have observed for many years is that criminal homicide is increasing in urban areas where people from heterogeneous cultures meet and begin to interact in undefined social situations. Cities in Africa are most likely to continue to experience high rates of violent crimes if the growth of their sizes is not controlled.

On the other hand, homicide occurs in what may be called impersonal situations such as when the victim and the offender are unknown to each other as happens in cases of robbery with violence or in ritual homicide that are common in some parts of Africa; or as when the victim is a subject of mistaken identity.

In conclusion, a profile of homicide is a definition of situation in which a homicide is most likely to occur. The identification of such situations is important from a personal and criminological point of view if the incidence of criminal homicide is to be brought under control. Legislation in respect of some of the items of the profile such as the control of firearms, spears, pangas, the licencing of beer halls and limitation of drinking hours or the determination of legal age at which young people are permitted to buy and consume alcohol are important for reduction of the incidence of homicide.

More studies of this phenomenon are necessary to throw more light on the rate, frequency and social situations, motives and methods of its commission for adequate social and legal control.

The study of crimes and the collection of criminal statistical data need to be stepped up in most of the African nations. The processes of modernisation, industrialisation, and urbanisation that are currently taking place in Africa are causing an increase in crime rate in all types of crimes including homicide. Crimes of violence and crime in general will continue to rise as countries of Africa undergo social, political and economic changes till they begin to stabilise when crime rate may begin to decline as social progress begins to affect the lifestyles of the people.

CHAPTER 10

TWENTY YEARS OF VIOLENCE IN UGANDA*

“The world chuckled, Africans applauded, and Ugandans died at the rate of 100 to 150 a day”, (Lamb, 1985, 88).

BACKGROUND

Uganda as we know it today is an amalgamation of formerly independent small kingdoms and tribal groups of people that lived under various political systems of native government usually organised around a paramount chief of the tribe or clan. The British imposed what they called a Protectorate over these people in 1894. In Buganda, the central province from which the country takes its name, the British found a well developed and organised system of government under a king known as the *Kabaka*. The country was divided into territorial chiefdoms, there was a judicial system with appellate courts, and a chief judge. Other departments of government consisted of the parliament, the army, fire brigade, works, transport and all sorts of craftsmen that were required to keep the machinery of the state functioning (Pakenham, 1992).

After he had visited Kenya and Uganda in 1908, Winston Churchill wrote:

The East African Protectorate – present-day Kenya – is a country of the highest interest to the colonialist, the traveller, or the sportsman. But the kingdom of Uganda is a fairy tale. You climb up a railway instead of a beanstalk, and at the end there is a wonderful new world. The scenery is different, the vegetation is different, the climate is different, and most of all, the people are different from anything elsewhere to be seen in the whole of Africa. Instead of the breezy uplands we enter a tropical garden. In the place of naked, painted savages, clashing their spears and gibbering in chorus to their tribal chiefs, a complete and elaborate polity is presented. Under a dynastic king, with a parliament, and a powerful federal system, an amiable, clothed, polite, and intelligent race dwell together in an organised monarchy upon the rich domain between the Victoria and Albert Lakes ... There is a court, there

are Regents and Ministers and nobles, there is a regular system of native law and tribunals; there is discipline, there is industry, there is culture, there is peace. In fact, I ask myself whether there is any other spot in the whole earth where the dreams and hopes of the negrophile, so often mocked by results and stubborn facts, have ever attained such a happy realisation, (Churchill, 1908; Hansen and Twaddle, 1988, p.4).

When the British established their colonial rule, they found an already existing and functioning system of government and sought to interfere with it as little as possible. They adopted a system of administration that they referred to as “Indirect rule”, whereby they established their rule through the existing native system.

Uganda is a well-endowed country with natural resources, with adequate and reliable rainfall, the land is fertile, and the climate is good. Cash crops such as coffee, tea, cotton as well as other food crops such as the bananas, maize, millet, beans, peas which constitute the diet of the people are grown with little effort; cattle, goats, and sheep are kept in large numbers.

At the time of independence in 1962, Makerere University was ranking among the best universities in East and Central Africa, it was the Harvard of Africa, (Lamb, 1985:89). The graduates of this university included teachers, doctors, lawyers, veterinarians, social scientists, economists, researchers, poets, civil servants and politicians. The civil service, the police and the postal services were ranked the best in the region. At the time the country attained its independence, unlike other African countries, it did not lack manpower; if anything, there was soon to be unemployment of university graduates.

The first three or four years of independence, the country continued to enjoy peace and political stability. The economic system and other developmental infrastructures continued to function normally and the association with Kenya and Tanzania in what was called the East African Community which run the ports, airways, railways, and the postal system was doing very well. (Dodge and Raundalen, 1987:16).

The seeds of political discord and economic ruin began to sprout through sectarian politics based on religion, tribes, ethnicity and sometimes on regions. Ill feelings began to appear between Bantu people of south, west and east Uganda and the Nilotics and Sudanic people of the north and north east; also between catholics and protestants, and they are these divisions that were to characterize the socio-economic and political trends in Uganda to the present. A political crisis had erupted in 1966 in the country precipitated by Obote's quest for absolute power which led to a clash with President Sir Edward Mutesa, who was also the *Kabaka* of Buganda. Obote sent his army under the command of Idi Amin to storm the palace of the King of Buganda, the President fled the country into exile where he died in 1969. From then on, violence, torture and genocide became the main characteristics of the Ugandan society.

TORTURE

The two decades starting from 1966 will go down in the history of East Africa as a period in which the people of Uganda suffered death, brutality, torture, degradation, imprisonment and generalised terrorism at the hands of state security personnel. At the time the Uganda Peoples' Congress (UPC) administration of Milton Obote collapsed in July 1985, the general population had already been hardened in its attitude towards violent deaths as a result of recurrent encounters with violence in their daily lives. Hardly a day passed without hearing or witnessing the death of a friend, an acquaintance or a fellow worker.

Dr. George Kanyeihamba, Uganda's Attorney General and Minister of Justice wrote that a British medical doctor, Nick Metcalfe of Manchester, who had gone to Uganda at the invitation of the Uganda Government wrote to British ministers on his return on 15 May 1985:

I dearly loved the country and the people from its many different tribes. However, I grieve very much for the gross abuse of human rights that is going on in Uganda. My main concern here is not the restriction of basic liberties but mass murder. Uganda reflects the problems facing all African countries, the collapse of democratic government ... but it is an exception on the scale of not only killings of political opponents

but the mass murder of innocent people. From my experience in Uganda, the Obote regime is guilty of all the crimes of Amin ... I base this on having worked in one area for a year and subsequently working and travelling around a majority of the country; (Hansen and Twaddle, *ibid*, p.75-6).

Another doctor, probably a Frenchman, was reported by *La Croix* a French paper, to have stated that "What was new for me, wasn't the poverty or the violence, but the daily and accepted terror. Ugandans live by the day and their own hope is that they survive ... When in 1980 Milton Obote returned to power aided by Tanzanians, it was believed that Uganda would be coming out of the nightmare where Idi Amin had plunged it. Four years later, the opinion finds that the country is sinking deeper, into murderous chaos" (Hansen and Twaddle, *ibid*, 75).

All in all, it is estimated that by the time this carnage came to an end in January 1986 when the National Resistance Movement came to power, under the leadership of Mr.Yoweri Kaguta Museveni, almost one million people had lost their lives, and hundreds of thousands were living in exile in neighbouring countries notably the Sudan, Kenya, Zaire; and as far as Britain and the United States of America (See Pirouet in Hansen and Twaddle, 239-53; *The People's Struggle*, January 1987,).

From the west of the country, to the central region, from the south to the east, innocent people were taken from their homes, offices or at roadblocks and "disappeared". Others were briefly held at military posts that had mushroomed all over the country as collecting centres of what the party and military officials called anti-government elements and guerrillas.

In many cases the victims were collected at night, and taken to the camps for torture and interrogation. From these camps, they were either shot dead or hacked to death by their captors; the bodies were then either left in the bush or buried in very shallow mass graves. In some cases, after interrogation and torture, the inmates of a prison, detention camp or torture centre were issued with sledge hammers; and the victims were lined up in single file; the first in line was ordered to hit the next in line on the head by using the sledge

hammer, which was passed on to the next until the last man, who was then either shot or sledge hammered by the captors. In many cases, the use of the sword or the sledge hammer was preferred to shooting because it was more economical and did not cause unnecessary rumour that was aroused by the sound of gunshots. Torture centres sprung up practically in every administrative division in the country especially at district level. In the capital Kampala, torture and murder centres were in all military barracks at Makindye, Lubiri, Kireka, Mbuya, Bugolobi and at the Maximum Security Prison at Luzira. Nearly all police stations in and around the capital were also torture and murder centres – Naguru, Central Police Station, Wandegeya, Jinja Road Police Station, Kawempe, Kibuye and Old Kampala to mention but a few.

Murder and torture centres were also provided in residential quarters and in government hotels. Room 211 in Nile Mansion (now Nile Hotel) was notorious as a torture chamber; (Criminal Session No. 17 of 1977 p.3) and it is reported that hundreds of people died in this beautiful hotel which the military elites and their political bosses had turned into their abode and working offices.

One hotel worker told of how he had been mopping up the floor on the ground floor when a dead body of a man came rolling down on the staircase. He had been killed in the corridor on the first floor and his murderer just pushed the body down. Residents on upper floors of this hotel were very often awakened in the early hours of the morning by screams and crying of people being tortured.

The centre of all these acts of inhumanity was the state research centre at Nakasero, right in the middle of the city. What this place was intended for is not clear but it ended up by becoming the most dreaded butcher centre in the country; for very few inmates ever returned alive from this death centre. At peak periods, killings were being carried out by soldiers, party youth wingers and other officials in nearly all over the country with the exception of those in inaccessible regions and islands; but with Kampala and other smaller towns in the central regions witnessing more murders than outlying and remote towns.

CASE REPORTS OF TORTURE

Rape provided a special entertainment and an amusement activity to the intoxicated soldiers. Old women, young girls and all were very often victims of rape and in many cases the rape preceded torture and murder. Eridadi Mulira, a prominent Ugandan and an advocate for human rights wrote in April 1984:

Reports came from everywhere of acts of armed people attacking villages raping wives in front of their husbands, and mothers in front of their children, and children in front of their parents. School girls no longer feel safe to go to school (*The New Century*, April 1984; Mushanga, 1988:109).

In some cases of this nature, sadism was demonstrated by use of objects to human beings. For example, coke bottles or green bananas were inserted into women vaginas. In one case, a prominent politician was being subjected to beating and torture. He pleaded to be allowed to speak to the head of state through a telephone, to explain his case. His torturer took a sword and cut off his penis and pushed it into his mouth and told him to call the head of state through that “telephone.” This politician was eventually killed and his body tied on a long rope behind a land-rover which was driven through the streets, to the great shock of the spectators who were helpless to intervene. The following four cases were recorded by Amnesty International and will give the reader a general picture of the abuse of power and the violation of human rights leading to torture and murder.

Case No.1

Female, aged 56

History

Her account of events was as follows:

In July 1982, three land rovers carrying uniformed soldiers came to “B’s” house. The soldiers beat her husband severely and took him away. She does not know where he was taken and has not seen or heard of him since. The soldiers looted her house and told her that her husband was being taken because he and her sons were involved in anti-government guerrilla activities. The husband, who

was a farmer and businessman, was a member of the Democratic Party. The sons were not at home at the time and were not arrested.

“B” was not herself assaulted on that day, but on the next day, the soldiers returned and took her to Makindye barracks telling her that her husband wanted to speak to her. She was not beaten on the journey. On arrival at Makindye, she was put into a large room containing many prisoners, guarded by many soldiers. There were men, women, young women and youths there. The guards said that the youths were “guerrilla leaders.” There were over 50 people held in the room, including some school children. There were corpses and pools of blood and urine on the floor and the whole place was filled with smoke. She had been detained early in the morning and her torture began soon after she arrived. During the day that she was there, she saw other prisoners being subjected to various forms of ill-treatment.

“B” had her hands tied behind her back and a rubber tyre was set alight above her. The burning material fell on her scalp, face, arms and chest. In addition, some corrosive liquid was thrown over her. She thinks it was acid, as the skin peeled off. After one day in custody she managed to escape from Makindye and was taken to a hospital.

However, soldiers came and began robbing, beating and raping the patients even those on intravenous transfusions. Some were killed. She escaped again and was taken to another hospital, where she stayed about a month. Skin grafts were taken from her thigh and abdomen. Then she heard that the army were searching the hospitals, so it was arranged for her to be smuggled out of the country. She has not heard of her husband or children since the time of her arrest.

Case No.2

Female aged 21

Her account of events was as follows:

In February 1984, while she was still attending school, uniformed soldiers came to “C’s” house one night in land rovers to look for her fianc’e. He was a soldier who had been arrested with the help of friends. She heard nothing of him since the time of his arrest. The soldiers took her from her home to Makindye barracks in Kampala.

She was beaten on the way and was put in a room at the barracks with other women, men and youths, but no children. There was no toilet or bucket, but there was a tap. They had to sleep on the floor but no food was provided, only that brought by friends of other prisoners, which was shared. Many people died, mainly of starvation but also from injuries.

She remained at Makindye for a month and was continually badly treated. Soldiers beat her with fists, sticks and *pangas* (machetes), as well as being kicked. The skin was not broken and did not bleed, but she was badly bruised. Her toes were beaten with the butt of a pistol and she lost a big toe-nail. She was burned “all over” but especially on the legs, with what seems to have been a paraffin or butane gas flame, possibly a blowlamp. Her legs were tied together while this was done. Sometimes, the guards put a rope around her waist “for fun” and she was pushed backwards and forwards, causing abrasions on her waist. She was threatened with execution and saw others who died from torture and lack of food.

“C” was repeatedly raped many times by many different soldiers. Many other women were raped in her presence. Some women were killed during rape. She became pregnant, but has no idea who the father of the child was. She remained in Makindye for a month, then was moved to Kireka barracks, where she was told that “they didn’t really know how to torture at Makindye”, as she had not revealed her fiancé’s whereabouts. She was beaten at Kireka, but implied that this was not as severe as at Makindye. She remained in Kireka for four months until she was able to escape and flee the country.

Case No.3

Male, aged 32

History

His account of events was as follows:

“D” worked as a salesman of evangelical books. In January 1984, he was visiting a house to sell books. The owner of the house, the managing director of a company in Kampala, was politically active and apparently suspected of being in communication with armed opponents of the government.

While he was at this house soldiers in army uniform arrived in a land rover and lorry and began shooting at the door. There were five people in the house at the time. Two tried to run away but were shot dead. The others, including “D” hid under the beds, but were dragged out.

A woman cooking breakfast had the fire she was cooking on tipped over her – she was burned and he thinks she may have died. The soldiers (including two men not in uniform) searched the house for ammunition, but did not find any.

“D” was accused of being connected with the household, in spite of his protestations that he only happened to be there to sell Christian books. He was accused of being a money collector for the guerrillas. He was beaten and slapped with fists in the house. He was then made to carry the two corpses out to a lorry. Another land rover arrived and took bodies away. The men captured in the house were then driven in the lorry to Kireka barracks, but just before arrival, the lorry stopped near a railway line where there were bushes. They were taken from the lorry and questioned, with suggestions that they should admit being armed. The prisoners agreed to confess to save their lives.

At the gates of the barracks, they were beaten again by a batch of soldiers, beaten “terribly for one hour.” “D” was hit across the head with the butt of a rifle. They were then put into a small room about 5 metres by 5 metres, where they were questioned by an army officer. He called another man to interrogate the owner of the house, who denied that he was a guerrilla. They accused “D” of being a spy and alleged that he had been followed from house to house and that he had been collecting money to finance the guerrillas. More soldiers and another officer came and he and three other prisoners were thrown into another bare room, with blood on the floor. They were beaten with bars and sticks, especially on the arms and knees, and thrown against the walls several times. He was by now bleeding from the nose and mouth and could no longer hear properly. He was ordered to lie down and was trodden and stamped upon by soldiers wearing army boots. He thinks that this went on for about five hours.

Next day, they were taken out one by one, “D” first. His interrogation and torture began at about 10 a.m. A written statement had been prepared with a “confession” and he was told to sign it, as it alleged that he was involved in spying and assisting people who were fighting the government. He refused and was badly beaten again. He was then asked if he knew his own body-weight. Then a copper weight of about 5 or 6 kilograms was hung to his penis and testicles with thin string and he was forced to walk about, going round the room ten times with a guard. This episode lasted about 15 minutes, the whole interrogation about three hours. He eventually signed the confession and was returned to his cell at about 1 p.m. The cell was very cramped, now having eight people in it, instead of four. A man who had been present when they arrived had died and the owner of the house, who developed severe diarrhoea, died on the third day. A few hours later, another man died. There was no toilet or bucket in the room and faeces everywhere. They were given food on the third day, consisting of *posho* (maize meal porridge) which had not been properly cooked and meat which was rotten. They had to eat the meat in the presence of the soldiers, or get tortured again. “D” was vomiting but the soldiers tried to stop him being sick, and wanted him to eat his own vomit. The other prisoners developed diarrhoea.

Also on his third day in the cell, he was forced to lie down, while soldiers stepped on his chest. He was kicked on the right hip, which still remains painful. He was pushed or drapped on the rough cement floor and had to crawl on it, grazing his hands and elbows for half an hour at a time, causing them to bleed. He was made to lie on his back and look up at the sun. He was also burned on the right heel with a heated metal brand and stabbed with a knife in the right thigh. He was made to walk barefoot over broken bottles, which cut the soles of his feet. He was then made to eat more food, causing vomiting. Another man died at about 6 p.m. that day and another at 7 p.m.; both bodies were left in the cell. At midnight, the cell was opened and they were taken out to where many dead bodies were on a lorry. The engine had broken down and they were ordered to move the bodies to another truck. Some were beaten as they were too ill and weak to help. Five were left unconscious in the cell. “D” was told to go to a “big room near the gate”. He refused, saying that

he had not been ordered to go there by an officer. He was stabbed in the right arm with a bayonet, but ran back to his original cell.

On the fourth day he was questioned by an officer and was able to establish that he was indeed a religious book salesman. He was then released from the barracks. However, later the same day soldiers came to arrest him again at his home. He escaped arrest but later learned that his wife had been arrested and that she had died in custody at Kireka barracks.

Case No.4

Male, aged 26

History

His account of events was as follows:

In June 1982, while “F” was at his place of business, selling motor spares, soldiers in uniform arrived in a land rover with two plain-clothes men who were either members of the Criminal Investigation Department (CID) or military intelligence. They took him to Makindye barracks, which was only 2 kilometres away. On the way, they beat him badly with their fists. On arrival, he was beaten all the way to the cell with canes and batons. The “cell” was a big room like a go-down (store) with about 200 men in it, where he was kept for a fortnight.

The room was dark, it had only a small ventilator near the roof and there was no toilet or bucket. There was a primitive toilet outside: to use this, they had to shout for a guard, who would then beat them for wanting to use it. The only drinking water was a tap at the toilet. The prisoners had to sleep on the floor. The cell was very crowded. The prisoners were taken outside for interrogation and for food. This was supplied irregularly, sometimes none for two days, unless the guards were bribed.

“F” was accused of providing supplies to armed opposition groups. His business activities had involved him in trade with Nairobi (in Kenya) and it was because of this that he became suspect. He was accused of passing information and his interrogators wanted to know about his finances. When they could not make out a case

against him for lack of any evidence, they wanted him to give a bribe for his release.

Every time the guards changed shift, a roll-call was made and indiscriminate beating took place, while the guards ordered the men to explain why they were in prison. The guards were usually drunk and laid about them indiscriminately with their rifle-butts. Some prisoners died – he saw “pink stuff” coming from their heads, presumably brain tissues. At other times, the guards used hammers to hit people on the head. This was always at night, especially if the soldiers were drunk. He personally saw men being killed in this way and helped to carry out dead bodies. People were huddled together, some fainting. He saw fractured jaws and eyes being gouged out by the guards.

After two weeks, he managed to talk to one of the soldiers about a bribe and gave him a small amount of money (or promised it) to contact his business associates. They raised UGX 1,500,000 (about UGX 2,000) which was paid to an officer and he was released to his home, where he found his family unhurt.

At the end of 1982, he was rearrested. He had just closed his shop at 6 p.m. and had gone home, when seven soldiers came from Lubiri barracks and attacked his house. They began shooting, breaking the windows. The front door was made of steel and was bolted. While he was fumbling with the bolts, bullets were fired at it: something hit him on the head from the door. When it was opened, he was forced to lie on the floor and they began beating him. He was told not to raise his head, which was bleeding. One soldier remained to guard him, while the others rampaged through the house. He was struck on the back of the head with a pistol or gun butt and lost consciousness. His family were at a relative's house, but the soldiers beat a servant whom they found in the house. Clothes, shoes and other items were looted and put into the land rover. “F” was then taken to Lubiri barracks and put in a cell where he remained until the following morning. He was then taken before an adjutant to explain his case. He pleaded that he did not know what it was all about, so the officer ordered him to be beaten again. He received four strokes of a cane on his buttocks whilst lying on the ground. He

complained of his head injury and an officer came, but no medical aid was given. The officer said that his case was very serious as he was financing the guerrilla movement.

The next day, hee was taken to a first aid centre and treated by an orderly, who shaved his head and put some powder and plaster on the wound, which was re-dressed several times. He remained alone in his cell for about a month. His family did not know where he was and he was given no further explanations. The barracks were only 200 metres from his shop, but he was not allowed any visitors.

He knew a number of soldiers and succeeded in sending a message to his friends and relatives, who raised a ransom of UGX 500,000. This was unofficial, so he was released secretly at night and taken to his home. (*Amnesty International, Uganda: Evidence of Torture* Al Index: AFR 59/06/85, June 1985, London. See also *Amnesty International* "Violation of Human Rights in the Republic of Uganda" Al. Index AFR 59/21/85, June 1985, London.

The victims of these episodes of violence can be grouped into several broad categories. Under Amin, victims tended to be those who opposed him or whom he imagined were opposed to his administration or who disapproved of the policy of killing human beings. Under this system, the suspect was usually a well-known man, well established in his profession or business. In numerous other cases, the victims were leading intellectuals, academics, professionals and prominent business people.

The victim was usually taken at night and members of his family left undisturbed. On reaching the military barracks, the victim was taken to the commanding officer who administered a very brief interview to the victim. There and then the fate of the unfortunate victim was determined. The commanding officer could order the victim to be "taken away"; that is to silence him, i.e., execute him; he could be ordered to be kept in the local prison, cell or detention centre pending further investigation.

When the decision by the commanding officer was to keep the detainee at the local station, this meant that his relatives now had a chance to come to his rescue by payment of ransom money

which varied from case to case and from time to time. Under this practice, it was uncommon for a person who had been traced by his relatives to the military barracks to disappear. Those who were to be “disappeared” were usually never traced, hence the terminology “disappeared.” So under Amin, one had to have been involved in the anti-Amin activities or to have been suspected of being anti-Amin to be killed. But there were other numerous cases which arose from interpersonal conflicts which had nothing to do with the Amin administration. With the breakdown of law and order, soldiers, policemen, and politicians engaged in settling old scores by all means. Old vendettas, rivalry and clan conflicts all sought solution through violence; as did conflict over women, land or debts.

Under Obote’s fascism, especially under what has come to be known as Obote II that is 1981–1985, the victims tended to be his real or imagined opponents. They were generally members of political parties other than his own Uganda Peoples’ Congress; and members of the Bantu group of tribes.

Thus we find that Obote’s victims, or victims of Obote’s administration were, on the whole, drawn from the southern Bantu tribes particularly the Baganda for whom Obote seems to have had a congenital dislike in addition to his well-known bantuphobia. The persecution and terrorising of the people was carried out by members of the armed forces, the majority of whom were recruited from the northern tribes of Nile-Hamitic people of Acholi, Lango, Teso and West Nile districts. The members of the police and prison forces were also drawn from the same districts and also are known to have participated in this exercise. Over and above this, there were the Uganda Peoples’ Congress Youth Wingers who acted as the eyes and ears of the party. The youth wingers were everywhere, in villages, schools, known as National Union of Students of Uganda (NUSU). In schools and colleges the NUSU were required to keep watch and report on the activities not only of the teachers and instructors, but on fellow students as well. At Makerere University, many of these youth wingers were issued with handguns which they kept for ready use all the time. Some UPC lecturers at Makerere also carried guns as did some of the senior priests in the country.

At the national level there was an organisation known as National Security Agency or NASA whose function was a combination of intelligence gathering, protection of the President, and overlooking the activities of youth wing and party members in general, and above all, keeping an eye on opposition groups. It was to NASA that reports of anti-government activities were made, and it was from NASA chiefs that orders for arrests, torture, disappearance and detention were received. The members of this terrorist group had been secretly trained in communist countries of North Korea, Cuba, East Germany and in the Soviet Union, and some had had no training of any sort. They were given basic instructions of how to use a gun and how to disarm and immobilise an opponent without the use of a weapon. In some districts, such as Ankole, Toro and Busoga, the local NASA men were even more powerful than the local district commissioners. In Ankole and Buganda, NASA leaders were the law itself; they took orders from nobody and reported to nobody except the minister of state for security in the office of the President.

Another major characteristic that has been mentioned in conversation among the people in Uganda that distinguished killing of people under the regime of Amin and that of Obote was that under Amin the unfortunate victim was taken and killed but his family was left alone, while under Obote II, especially in Buganda, members of the victims' families were often dispersed if not killed as well. This was the practice in Luwero, Mpigi and Mukono districts; where whole families were wiped out and their homes looted of all belongings such as money, clothings, beds, doors, tables and then set on fire.

This led to some kind of internal exile, people abandoned their homes in the affected areas and sought security in anonymity offered by the city and distant towns. It is estimated that about 300,000 people were living in internal exile from Luwero alone, and most of these were living in Kampala, Masaka and Mubende towns. It is also said that, under Amin, if one kept a low profile, avoided conspicuous living and mixing with members of security forces, one would survive, but not so under Obote II because of the widespread intelligence network.

The two fascist regimes also differed in another aspect. While the top leadership of the National Security Agency (NASA) had had some training; for example, Mr. Chris Rwakasisi, the then minister of state in charge of NASA, had spent some six years in the Soviet Union; Serwano Kabogorwa who handled the intelligence in the army also had his training in Baku; Edward Buregyeya, a right hand man of Chris Rwakasisi, was trained in Russia; the leaders of the State Research Bureau (SRB) of Idi Amin were generally semi-literate. Obote recruited Bantu into NASA to infiltrate Bantu communities, while Amin had depended on Nubians who could not communicate because of language problems and were easily identifiable because of ethnic and tribal characteristics. Under Obote II, it was the people one knew, in most cases they were from the same area, who carried out the spying, the identification, arrest and torture, while under Amin, nearly all those involved were usually outsiders. The violence under Obote II is said to have been more vicious because it was perpetrated by people who were known to their victims. For example, the number of people who were arrested in Mbarara and were eventually killed at Kireka near Kampala were arrested by people who were known in and around Mbarara, (Criminal Session No. 17, 1987).

THE BANYARWANDA

Another example of the misuse of power and violation of human rights is the case of the Banyarwanda people. Some people of south western Uganda have very close linguistic, cultural and socio-economic links with the people in the Republic of Rwanda. In some cases, the international line dividing the two countries goes through villages and separates clans and even families.

In the 1960s, there was ethnic violence in Rwanda which led to hundreds of thousands of people crossing the border from Rwanda into Uganda where they settled. These are the Tutsi, who ruled Rwanda for centuries till their oust in the 1960s.

When in 1981 anti-government movements that were principally spearheaded by Museveni and elements of his Uganda Patriotic Movement started the struggle, some of the young men

and women of Rwandese origin also joined because they were already assimilated into Ugandan society. This did not please the administration in Kampala, and as a result, in 1982, the reeling party issued orders to evict all people of Rwandese origin and force them to return to Rwanda. The majority of these people, that is, all who were 30 years and below, did not even speak Kinyarwanda. They were forced out of their homes and villages, they were beaten, tortured, they were driven away leaving their cattle, money and household effects. They were not allowed to take any property with them. The sick, the old, the lame, the young and all were marched to the border of Rwanda and forced to cross into camps where they remained till the National Resistance Movement took power in Kampala and were able to cross back to Uganda.

Dr. Louise Pirouet writes that there was good reason to believe that the evicting of the Banyarwanda was planned over a long period of time and that it was carried out at the instigation of the central government. When the exercise started, Obote was conveniently out of the country, but on his return, he issued a statement on 29 October 1982, in which he disclaimed central government involvement, and concluded by saying:

I want to assure the Chairman, Counsellors, Ugandans and the rest of the world that there was no government approval, scheme or decision for the persons of Rwandese origin to be uprooted from amidst the Ugandan population. I also want to assure all the rest of the country as well as the world, that the government of Uganda will not pursue such policy.

But only a week after the president had made his statement the chairman of Mbarara district council addressed the counsellors, county and sub-county chiefs, saying:

I summoned you to inform you that the battle to collect and return the refugees to their places is over, and to thank you for the work you have done... What remains now is to scrutinise refugees that might have stayed behind and rid villages of refugees... I am glad to tell you that our exercise was performed perfectly well even if there were sporadic incidents which did not please us, e.g., our two youths and one policeman were killed... This is not negligible. The good thing is that we won the battle through the blood of our friends above.

Let us observe a minute of silence in their remembrance... Go and preach the gospel and inform the people that we have won the battle. Let them follow as we know our destination and we have already started seeing sunshine there... I am warning everyone to avoid the property of the Banyarwanda... Be patient and the district council will determine a way for you to share these properties... To dispel all rumours and loose talk, the President's speech from the start to the end does not state that refugees and aliens should return to the lands they occupied, (Hansen and Twaddle, *ibid*, p.244-5).

This exercise was carried out by people from Ankole. Three elements helped the UPC in their decision. One was that the majority of the people who had come from Rwanda were members of the Roman Catholic Church; and as such were unlikely to have any sympathy from the UPC government in Kampala because of its religious bias. The reason is that in Uganda politics, political parties were originally organised along religious lines. Roman Catholics were told to belong to the Democratic Party (DP), which has very strong ties with the Catholic Church having been imported into Uganda from Europe in the early 1950s. The members of the Protestant Church were, organised to join the Uganda People's Congress. In some areas rebellious Catholics did join UPC, but these were the exception rather than the rule. On the other hand, Protestants who joined the Democratic Party were those who sensed some uneasiness or were being discriminated against within the party because of their tribal background. For example, the Bahima of east Ankole and western Masaka had joined the Catholic DP almost *en mass*, not because they were convinced of its sound programme, or because of its enlightened leadership but because of the way they had been treated by the UPC leaders in Ankole.

The second point which influenced the UPC leaders to expel people of Rwanda origin was that the majority of these people were ethnically related to the Bahima who, as a group had embraced the DP and more so a group from which Mr. Museveni came, a man UPC had declared state enemy number one.

The third element that led to the eviction of people of Rwanda origin was greed and envy. Corruption had engulfed the entire government; government bureaucracy was in shambles due to

corruption, nepotism and religious sectarianism. In this kind of situation, the party members in Ankole, especially those who held no party or government posts from which they could enrich themselves through corruption, found the Banyarwanda an easy prey as the latter had acquired considerable material wealth in terms of herds of cattle, businesses, shops and large tracts of land. The party activists determined to evict the Banyarwanda in order to take over their property. The order was that they (the Banyarwanda) had come with nothing and were to go back as they came. This was a repetition of Amin's expulsion of Asians a decade earlier, and of Obote's eviction of Kenyans during his first administration.

The Obote II government had organised itself to hold elections towards the end of 1985; in their wise judgement the party leaders in Ankole calculated that if they removed as many DP supporters as possible the chances of their winning in this district would improve considerably. What followed this decision was one of the most sordid episodes in the history of independent Uganda. Thousands of people, men, women and children were forced by youth wingers of UPC and soldiers to leave their homes and go to Rwanda. Those who had come from Rwanda in 1960s were now very old men and women, many were men and women in their early twenties, and the majority were in their teens who had never been to Rwanda, and could not even speak the language. They had attended schools in Uganda, had been brought up in the traditions of the local people in Uganda and all of a sudden they found themselves being forced, at gunpoint, to cross the Kagera river, and go to Rwanda where they were definitely not welcome. Hundreds died on the way, and those who managed to cross the border were kept in refugee camps. Meanwhile, the UPC functionaries helped themselves and divided the looted property of the departed people. These included cattle, goats, household goods which their owners could not carry e.g., beds, iron sheets that were taken off the houses, etc. There was outcry, but UPC insisted on expelling the people. Banana plantations and gardens of the expelled were shared among the local UPC members some of whom began to move in houses of the departed owners. This was bonanza for local party militants. What is more surprising is that people who had no trace of Rwanda origin, but who were known or suspected to be

sympathetic to anti-UPC struggle were also expelled from Nshara, Isingiro, Rwampara and Kashari counties of Mbarara district. It is estimated that as many as 30,000 families, that is, almost a quarter of a million people were affected in a relatively short period of time (Hansen and Twaddle, *ibid* p.239-53).

And finally, one other characteristic that differentiated the two regimes is that under Obote not a single person was publicly executed by firing squad which was frequently practised by Idi Amin. Suspected guerrillas or bandits as they were called, were driven back to their home towns, their relatives were forced to attend the executions and priests were commandeered to come and say prayers for the souls of the victims. These executions were carried out after brief trials by military tribunals which were presided over by semi-literate brigadiers where the defendants had no access to legal representation and had no right of appeal to civilian courts; (Proceedings of The Treason Trial by the Military Tribunal, September 1977, Republic of Uganda).

During the Amin reign of terror, many senior persons both from the armed forces and from the general public lost their lives. These included the vice chancellor of Makerere University, very prominent surgeons at Mulago hospital, the Anglican Archbishop of Kampala, cabinet ministers, the Chief Justice of the republic, professors, businessmen, traders, retired civil servants and the like. All in all, 500,000 people died in a period of 99 months as compared to 300,000 dead under Obote II in a period of 55 months (Hansen and Twaddle, *ibid*, 250).

Under Amin, 168 people were killed each day as compared to 182 under Obote II. Both these rates are world records in that they are the highest ever recorded during peace time (Mushanga, 1988, p.24-25, see also Lamb, *ibid*, p.88).

THE ROOTS OF VIOLENCE

Uganda had started off on her road of independence on 9 October 1969 very well. Elections had been held and through some agreement between Obote's UPC and *Kabaka Yekka* (KY), a locally organised party in Buganda that sought the safeguarding of

the monarchy in Buganda. Other parties namely, Obote's UPC and Benedicto Kiwanuka's DP had had very poor support in Buganda. By the mentioned agreement, UPC under Obote was able to form government with the support of KY members who had been indirectly elected to parliament by Buganda parliament or the Lukiko. That is in Buganda alone, the people elected members to the regional parliament at Mengo, which, in turn, elected members to the national assembly in Kampala. In this way, UPC plus KY members were able to constitute the majority in the National Assembly (Karugire, 1988).

The independence Constitution had provided for the retention of the kingdoms in Buganda, Ankole, Toro and Bunyoro. A year after independence, the king of Buganda, Sir Edward Mutesa II was elected the first President of Uganda; and Mr. Obote was his prime minister. This arrangement seemed to have been a reasonable one in the circumstances. There were, however, major problems that needed serious attention. One of these was the question of the "lost counties." These were counties which had been annexed by Britain to Buganda for the role the Kabaka played during the British struggle against Kabarega, the king of Bunyoro. The Banyoro people wanted these lands returned to them. The London independence constitutional conference had agreed that a referendum be held in those counties to decide their future, whether they remain in Buganda or be returned to Bunyoro. Sir Edward Mutesa as Kabaka of Buganda was in favour of retention, while Obote was willing to go with the result of the referendum. The results showed that of the three counties in which the referendum was held, only one opted to remain in Buganda. It is said that Mutesa, in his capacity as president of the republic refused to sign papers of transfer of territory thereby creating a political crisis. The crisis sparked off the violent encounter between Obote's central government forces and the Kabaka's guards at his palace at Mengo. This was in May 1966.

At this time, President Mutesa, was staying at his palace at Mengo just outside of Kampala when Amin, then chief of the army, on Obote's orders attacked the Kabaka's palace with heavy machine gun fire. Many people were killed, the palace burnt, and the president fled the country and went into exile where he died in London in

November 1969. Soon after the Lubiri incident, Obote abrogated the Constitution and declared himself a president; he abolished the kingdoms as well as the constitutional heads of districts that he himself had created. Violence began to spread. At Nakulabye, a small township just outside Kampala, several people were gunned down for no apparent reason and their bodies were left in the open for all to see. The army became more visible, more mobile and more hostile towards the civilian population. The anti-Baganda feelings began to be expressed by those in positions of power. Obote continued to be more and more alienated from the people; the UPC leaders became more arrogant, corruption became widespread, the Lango from the north began to refer to themselves as princes from the north; the harassment of non-UPC and especially the DP Baganda continued; arrests became more frequent and roadblocks began to be seen on most parts of the country as political power began to slip from politicians to soldiers. The end of Obote's rule was approaching very fast as anti-government elements began to come to the surface as when an attempt on Obote's life was made at Lugogo in 1970.

On 25 January 1971, Idi Amin staged a *coup d'état* while Obote was in Singapore. Kampala went wild with people dancing in the streets not so much as to welcome Amin, but for the removal of Obote from power. As everyone was to learn the assumption of power by Amin was a continuation of Obote's policy of state terrorism; and this went on for eight long years, (Lamb, *ibid*, pp. 88 – 90).

During the first year of Amin's administration things seemed to be going on well. Amin had appointed senior professionals as his ministers, men with wide experience in various walks of life. But as soon as he began to learn more about his new role and about the individuals who surrounded him, he began to interfere in the administration of ministers, he began to attack senior civil servants; his soldiers began to be unruly, indisciplined and hostile to the general public. In the meantime, people began to disappear in and around Kampala. More and more people were being rounded up and taken to military barracks where they were detained for no reason during which time they were harassed, beaten and tortured. By 1973 the security situation in the country had deteriorated very

considerably; violence had already spread through the army, police and Amin's secret agents, called state research bureau.

At this time target group were the ethnic group of people from whom Obote came and from whom he had recruited men into the armed forces; these were the Acholi and Lango. Amin's fear was that since these men were of Obote's ethnic group and had been recruited by him, they were, therefore his supporters. He began to recruit into the army members of his Kakwa group and since the Kakwa are a very small minority, he had to recruit from members of the same tribe from neighbouring Sudan; the Nubians. The killing of the Acholi and Lango people continued especially in the army. Dead bodies were to be seen on streets, on garbage heaps, in forests and on roadblocks. The killings and disappearance of people increased as pressure mounted against the regime.

In 1979, Amin fled the country, his regime collapsed, his soldiers were forced out of Uganda into Sudan but violence did not disappear. The majority of the fighting forces that had come from exile to force Amin out were Obote's former soldiers who had fled the country at the time Amin came to power and those who had fled from Amin during the hunt for Acholi and Lango. As soon as those men entered Uganda, they embarked on a policy of revenge against the people of West Nile and Madi districts from where Amin drew most of his soldiers. The hunt for the Lugbara, Madi and Kakwa was intense, many people died, hundreds of thousands went into exile.

Violence continued throughout the administration of Presidents Yusufu Lule and Godfrey Binaisa, and under the Military Commission under Paulo Muwanga.

In 1980, elections were held in December and Obote's UPC was declared victorious despite overwhelming evidence of rigging. Obote, without a constituency and therefore without the mandate of the people was forced on the people of Uganda by President Nyerere of Tanzania as President and Paulo Muwanga, who also had not been elected to parliament as his Vice President.

This is important in the understanding of the extensive nature of violence during the Obote II administration, as part of

the explanation lies in the political process that was established immediately after the December elections in 1980. With Obote back in State House, political oppression, robbery with menace, rape, looting, wanton mass murders, disappearances, general insecurity and economic depression took a new turn for the worse. Soon after taking office Obote plunged the country into the worst economic abyss it had never been in since the arrival of colonialists eighty years before. The hunt for members of Uganda Patriotic Movement, a political movement that had been founded by Yoweri Museveni in 1980 was mounted. This movement contested the 1980 elections, and only one of its candidates was elected. Elsewhere, the votes were either stolen or reversed in favour of UPC. The hunt intensified soon after Yoweri Museveni together with 26 others determined to rid Uganda of injustice, corruption and above all, to put a stop to genocide.

In February 1981, two months after the elections, Museveni attacked a military unit by way of declaring war on the new regime. The government responded by unleashing heavily armed and enraged soldiers into Luwero, Mubende and Mpigi districts to clear the areas of guerrillas. As time went on, violence, looting, torture and murders spread throughout the country. The more the government became aware that it couldn't eradicate its opponents the more desperate it became and the more it sought solution in what was called the "scorched-earth policy" that was advised by North Korean military.

According to this policy, whole families or villages of suspects or of people suspected of being sympathisers to the anti-government agents were destroyed — people were killed, men, women and children, their belongings taken, and their homes razed by fire. While this was continuing in the central region of the country, the rounding up of Museveni's supporters continued, arrests were being made, people were detained, interrogated, tortured and many killed at all the military barracks or police stations.

Roadblocks were erected almost on all the major roads and stationed at very few miles. Business, trade and agricultural production were reduced to the minimum, corruption and bribery became

rampant, smuggling became the main venue of international trade; coffee, cattle, gold, hides and skins, fish were smuggled out of the country in exchange for clothes, sugar, etc. Robbery with violence especially of motor vehicles became acute, taking of hostages by soldiers and demanding ransom money became more frequent and a lot more of new forms of criminal activities became widespread.

The condition of the social services was in shambles and by the time the regime of violence ended, everything had almost ground to a halt. Most roads had become impassable, potholes were everywhere, bridges had not been repaired where they had been washed away. Coffee, tea and cotton factories were in ruins; coffee and tea estates were overgrown and no longer productive; schools had no equipment, no chalk, no exercise books; teachers and other civil servants went for months without pay; magistrates and police officers had no paper on which to write; hospitals had no drugs, bandages or syringes; salaries and wages were very low to afford the workers a livelihood; in short life in Uganda had almost surpassed the Hobbesian state of nature where life was brutish, nasty and short.

Perhaps the most important point to consider in some greater detail is the role of illegal and deviant activities played in the economic and social survival of the people of Uganda. This is deemed to be very important in view of the fact that the entire socio-economic and political system had broken down as was law and order, and yet the people continued to exhibit more resilience, fortitude and determination to survive.

David Lamb states that:

“The worse things became in Uganda, the more adaptable and accepting the Ugandans seemed to become. If there was no food in the stores, they picked fruit and ate it steamed, mashed bananas, which are served with local spices and are known as *Matoke*. If the phones didn’t work, they did their business in person. If friends and relatives died for making ill-chosen comments, they became silent. If there was no public transport to get them to their city jobs, they walked. They did so without complaint or apparent anger. “*Shauri ya Mungu*” they said – Swahili for “It’s God’s Will.”.... They had learnt the art of survival.”, (Lamb, *ibid*, p.90).

It is also important to note that in spite of these problems of economic and the spread of violence, some parts of the country actually made gigantic progress in structural and commercial development. In these areas, building construction intensified and expanded beyond any level ever known before. This is said to have been made possible, through smuggling and *magendo* or illicit trade. Goods in great demand in neighbouring countries such as coffee, beans, cattle, hides and skins, petrol, diesel and kerosene were smuggled out of the country and sold at enormous profits with which the smugglers bought the required materials for building construction. Again when one considers the fate of the civil servant or any other wage earner one begins to wonder as to what extent these salary earners went in involvement in illegal conduct to be able to survive; because the inflation was too high, for example, the salary of a middle-ranking civil servant could have been UGX 7,000 – 10,000, per month (1 USD = UGX 150 officially, but UGX 300 – 450 on the black market); and that could not buy one meal in a hotel, and one had to work for a whole year to be able to pay for one night in a relatively cheap hotel.

In January 1986, the National Resistance Movement ushered in a new era of peace, reconstruction, rehabilitation and social progress together with the rule of law, respect of human rights and peaceful co-existence or good neighbourliness.

CAUSES OF THE CRISIS

As one writer has rightly noted, no African state is a smoothly functioning democracy, but all these one-party dictatorships are not in turmoil of tyranny, anarchy and almost economic ruin, (Hansen and Twaddle *ibid*).

Uganda presents a unique case of a country that found itself in the grip of chaos, violence, economic collapse and decay. To explain this state of affairs, we must consider, among other things, four major factors that could have contributed to this crisis.

The first one is the history of the country. As noted earlier on, Uganda as we know it now was put together by the British. They grouped together, some of the most highly organised states with

what the British anthropologists called “Tribes without rulers”. This grouping was, from the beginning, characterised by disharmony, mistrust and inequality. The southern Bantu live in an area that is naturally endowed with good soil, rainfall and an abundance of water in rivers and lakes. The southern Bantu were also favoured by the British who set up to recruit them into the civil service and other privileged white-collar jobs while the northern Nilotics, who hail from a semi-arid land with little resources, were recruited into the army, the police and prisons. The end result of this arrangement was to create some kind of class society of the rich Bantu in the south, and the poor Nilotics in the north. This is sometimes termed tribalism. It is tribalism simply because the people involved happen to belong to the Bantu and non-Bantu groups of people. In reality, the conflict is more economic than tribal, ethnic, or linguistic. The Bantu, and especially the Baganda, resisted any attempt at assimilation with Nilotics unless they were put in control of the rest. This conflicting situation led to envy and rivalry.

Secondly, there was conflict between traditional rulers, the kings of Buganda, Ankole, Toro and Bunyoro (all in south and west) who sought to keep their traditional power over their subjects while the new political party leaders sought to establish a more democratic form of government in which power was to be derived from the masses. Political parties were a new wine that was quite unsuitable for centuries – old monarchical hereditary regimes. The competition between traditional kings and political leaders led to a show of strength at Mengo palace when Obote’s soldiers led by Idi Amin stormed the king’s palace forcing him into exile.

The third element in the genesis of the political crisis is what is repeatedly being referred to by Mr. Museveni as political bankruptcy. One writer in fact stated that in a 1981 newsletter of the National Resistance Movement, Mr. Museveni “argued that one of the reasons Uganda finds itself in the present political mess is because at independence, men of low level of modern education, including school drop-outs like Obote found themselves at the top of the state affairs although Uganda had the best trained (elite) in sub-Saharan Africa,” (Christine Obbo in Hansen and Twaddle, *ibid*, p.208). This also applied to Amin, Paulo Muwanga and Tito Okello.

Fourthly, there was fear and insecurity. People who have tasted power in third world countries, find themselves in the grip of fear to lose it. The fear is psychological, economic and physical. The psychological part of it is related to the history of the people where power was traditionally handed over from father to son and the new African leaders tend to have the wish to have power handed over to their descendants if not biological descendants then political ones. This too may explain the long stay in power even when such leaders no longer enjoy the support of the majority of the people. The economic aspect of this fear is the dread of reverting to pre-leadership times when such men had no clear source of income as the majority of them had no professional skills to fall back to. The physical aspect of this fear is related to the conduct of these leaders while in office. Those who engaged in acts of violence and abuse of power and violation of human rights fear revenge from members of the general public whom the leaders might have antagonised while in office.

Lastly, there is the quest for self-aggrandizement through personality cult that leads to an abnormal or neurotic desire for fame. This can be seen in the way third world leaders adorn themselves with titles of doctor, general, and so on. Amin called himself the Conqueror of the British Empire or CBE and Bokassa crowned himself Emperor of Central African Republic while many others are given titles of 'Life President', the Light, the Saviour and the Teacher.

CONCLUSION

The people of sub-Sahara Africa, from Kenya in the east to Senegal in the west are making real efforts to fight against the declared enemies of Africa, namely, poverty, disease and ignorance. They, have, since the time of independence that is one generation ago, been able to expand educational opportunities which has resulted in the high literacy rates as in Tanzania. They have also constructed infrastructures in many fields of human endeavour. Political adjustments are being introduced to modernising the political systems by allowing multiparty systems instead of single party dictatorships. This change

is taking place in a good number of countries such as Zambia, Zaire, Congo and other African states.

What remains to be done in Africa, south of the Sahara, is to evolve a political system of government that will ensure the rule of law, the respect for human rights the eradication of corruption and, above all the creation of a socio-economic and political atmosphere that will minimise the rise to power of self-appointed dictators that have come to characterise this region of Africa since the advent of political independence. Because, I believe, that it is the socio-economic and political system that makes it possible for dictators to emerge on political scenes in Africa and in the third world in general.

CHAPTER 11

ALCOHOLISM AND ITS CONTROL*

Very few communities around the world do not manufacture, trade in, or consume alcoholic beverages. We hear that the people of Papua New Guinea are such a people who do not know how to make some kind of an intoxicating beverage and these must be considered an exception. From time immemorial to the present most of mankind have developed quite elaborate and sometimes highly sophisticated techniques and technology for the manufacture of alcoholic beverages, and these have ranged from simple fermentation of juicy liquids to distillation of very highly potent alcoholic drinks. Man has in fact discovered that he can obtain alcoholic beverage from almost anything that he grows for food; maize, millet, bananas, pineapples, coffee, etc. In Kenya today, there is effort to obtain whisky from cashew nuts at the Coast. The making of alcoholic beverages is an ongoing process which sometimes interferes with the normal dietary requirements of the people concerned. For example, it has been estimated that in Zambia at least 15% of the annual maize crop harvest is diverted to the making of some types of alcoholic drinks. In Kenya, it is not yet possible to make a reasonable assessment of how much maize, millet and sugar goes to the brewing of alcoholic beverages. But what we know is that quite considerable amount of these commodities are spent annually in the manufacture of alcoholic drinks.

Through generations before us, and this is true in most parts of the world, the use of alcohol has often been abused, and as a result, has revoked the social and cultural sentiments of the people, and this has led to outcries for the curbing, control or total prohibition of the consumption of alcoholic beverages. In some communities the need to do away with the consumption of alcohol has been reinforced by religious injunctions; thus in some Mohammedan countries, and to a lesser extent in some countries which practice some of the "Eastern" religions, the consumption of alcoholic drinks is said to be quite low. In other areas of the world, customs, morals, and cultural

values have defined and therefore restricted the consumption of alcoholic drinks either by prescribing who is allowed to drink alcohol, i.e., at what chronological age, or social status, or at what time or occasion. No known society has left the consumption of alcoholic drinks undefined. In our present-day society we have laws prohibiting the sale of alcoholic drinks to infants, that is, people who are below the legal age of maturity; 18 years in East Africa. If this law was rigidly reinforced, its effects on drinking habits of the people would be quite evident.

In most of East African communities, the consumption of alcoholic drinks is both culturally and socially as well as legally defined in that the drinking of alcoholic beverages is not individualised (except in a few cases, mostly of near-alcoholics) as is the drinking of water or milk. It is legally defined in that there are specific places and times of the day when one is legally allowed to drink alcoholic beverages.

What follows in this short paper is a brief presentation of the problem as one observes it without having gone into research; that is, the trend and the dangers or social problems arising out of this social activity. Efforts will also be made in trying to suggest some of the preventive or control measures that would go a long way towards ameliorating some of the glaring social problems that are results of the misuse and abuse of alcohol both in rural and urban populations of East Africa.

CULTURAL ASPECTS OF THE USE OF ALCOHOLIC BEVERAGES

The consumption of alcoholic beverages among the people of East Africa is quite widespread and pervades most of their cultural activities! In most of these communities of people such as the Baganda, Bahaya, Banyankore, Gikuyu, Akamba, Luo and so on, marriages are, as has always been the case, arranged, contracted and finalised while drinking is going on. In some societies, such as the Abakiga, it is inconceivable to talk about marriage in the absence of alcoholic beverages. Not that the people, (mostly men), assemble to drink and end by arranging a marriage; on the contrary, the people are convened for the sole purpose of discussing all matters pertaining

to the proposed marriage and the drinking of intoxicants is just part of the process, for alcohol, as has been noted, is a social lubricant when taken in moderation and in such delicate deliberations, it helps the decision makers to narrow their differences and objectives and to make their demands more realistic. Moderate consumption of alcohol does facilitate free and frank discussion and helps to expose what otherwise would have remained unknown. Among many people in East Africa, traditional marriage takes a long time, in some communities, the process of arranging a marriage may take as long as a year or two, and during this time the members of the clan of the bridegroom-to-be have to keep in constant touch with the clan members of the bride-to-be by paying regular and frequent visits with gifts of pots of beer. During all this period, senior members of each of these groups have the opportunity to observe and study and collect information on the general behaviour of the other and at these parties the truth about each group is revealed when men interact while under mild influence of liquor (Roscoe, 1923).

At weddings and other similar celebrations the old, the women and even the youths, may be seen to enjoy themselves, and drink together, but otherwise each community imposes sanctions on the misuse of alcohol.

Alcohol also plays a major role in the culturally defined process of social control and settlement of disputes; in hearing and arbitrating in marital disputes; in settling land and water wells disputes. These are important areas of social existence in which human beings find themselves facing each other because of their daily needs. The presence of alcohol plays a major role in turning down tempers and allowing disputes to be resolved in an acceptable manner; occasionally, the opposite happens.

Much more commonly, people will use any social pretext to drink alcohol. The use of intoxicants is culturally prescribed in a good number of situations; for instance, people will consume alcoholic drinks after a successful hunting or cattle-raiding expedition, people will drink when a son is born to the clan, or when an important visitor comes to spend a night or two. People will expect to be given alcoholic drinks when they come to help a neighbour to build a

house or a grains store or to help repair a cattle kraal, or to sink a well for the village. At harvest times as well as at funerals and at all occasions when sacrifices are offered to the gods and spirits for rain, for cattle or for general well-being of the entire community, alcoholic drinks are served. In many communities, the consumption of alcohol forms part of the religious worship as is the case of *emandwa* among the Banyankore of Western Uganda, and among most Christians' worship as holy communion.

THE SOCIAL ASPECT OF THE USE OF ALCOHOL

The social aspect of the consumption of alcohol is distinguished rather arbitrarily to refer to the use of alcohol in contexts which generally do not reflect a cultural dimension. In this context, all political party entertainments may be grouped here, as well as all kinds of routine bar-drinking where the individual or a group of individuals may be seen to drink as they pay for this drink in a sort of a culturally mixed gathering. In any bar in Nairobi, or Kampala, different people of all races and beliefs may be found mixed up something that reflects the social mix of the metropolitan city of Nairobi. This kind of drinking is now very much widespread in all parts of the region and has generally begun to replace the traditional or the cultural contexts in which the use of alcohol is almost a cultural imperative. Bars and hotels have sprang up even in the remote parts of the country where bottled European beer and locally distilled or fermented alcoholic beverages can easily be sold even to minors and often at off-licence periods of the day.

I have explained that the distinction between what I have called cultural and social aspects of the consumption of alcohol is that the cultural aspect underlines some cultural function whereas the social aspects may be purely for enjoyment and as such these tend to dominate the scene in urbanized communities. Here and there, of course, we find a mixture of the two but the traditional form of consumption of alcohol still predominates in rural areas.

TRENDS IN DRINKING HABITS

We must note here that at the moment, there are two types of alcoholic beverages, one type is what we may call “Native” or traditional and the other is the European type of alcoholic beverages, which were introduced here by slave traders and later carried on by colonialists.

For the most part of pre-colonial era, the consumption of European alcoholic beverages was restricted to the east and west coasts of the African continent, that is, to those areas which were frequently visited by slave traders; and the consumption of alcohol in those areas was further restricted to the elite class of the societies in which trade was being carried out. The trade in alcohol has been the basic tie between Europe and Africa for centuries. Alcohol was the article of barter system through which European goods were exchanged for African slaves. Records show that as early as 1724 Europeans were exchanging brandy in addition to other goods such as beads and guns for slaves (Pan, 1957:7).

More specifically, and more recently, Europeans in East Africa restricted the use of their alcohol by Africans, and this had a terrible effect on the minds of the Africans. At first it was the lager beer that was available and only to very few Africans whom the Europeans regarded as having been civilised enough as to be allowed to consume alcohol and it was in this sort of situation that the consumption of European alcoholic beverages, as Professor Harworth says, “as with the imported languages and many other ‘colonial artifacts’ was attached high social status” (Harworth, 1977). Up to today, the drinking of bottled beer carries high social status and the consumption of spiritous ones such as brandy, whisky and gin carries even higher social status especially among the educated partly because they are “stronger” and partly because they are imported and not locally distilled; there is, apparently, something of a psychological nature relating to locally and imported goods; the general preference is for the imported goods, imported advisors, imported programmes, etc.

Although bottled beer has found its way even to the remote villages of East Africa, it is predominantly consumed in greater

quantities in cities and towns. (In 1978 Kenya brewed 93,400,000 bottles of beer) and as to the distilled spirits, one can reasonably assert that the consumption of these is almost to be found within the city and town boundaries. The situation as it is today is that the rural populations consume mostly the traditional beverages and the neo-traditional kind of gin variously known as *kagogo* in Uganda, *chang'aa* in Kenya, and is the same kind of gin that Nigerians call 'Push-me-and-I-push-you'. This new kind of locally distilled gin is extremely widely used by the urban poor who cannot afford the expensive bottled beer on a daily basis. In the city of Nairobi effort has not been spared in an attempt to eradicate this habit but success appears to be a long way off.

The consumption of bottled beer in Kenya is reported to have increased dramatically over the last one year. The East African Breweries Limited has expressed concern that if the new brewery plant now being built at Kisumu is not completed soon, the country will surely be short of beer. The brewery has earned USD 5.8 over a one-year period which is stated to be an increase of about 33 per cent. The chairman of the brewery company has noted that "so dramatic, however has been the change of the consumption pattern during the last twelve months that we have brought forward the Kisumu project as a matter of urgency, since, unless it is completed by the end of 1980, we shall find ourselves short of beer to fulfil the Kenya demand". (*Nairobi Times*, 6 November 1977:5).

PROBLEMS RELATED TO MISUSE OF ALCOHOL

(A) MEDICAL PROBLEMS

1. Alcohol is the commonest poison known to the medical profession that is consumed in large quantities by many people of all ages and all races, and sexes.
2. Alcohol, if taken in considerable quantity and over a period of time has a damaging effect on the nervous system, on the brain, and destroys the liver leading to what is medically known as cirrhosis of the liver, a disease that is characterised by increase of connective tissues and alteration in the function of the liver leading to ascites or the accumulation of fluid in the abdomen.

3. Prolonged overuse of alcohol leads, in some cases, to alcoholic addiction; that is, a dependence syndrome in which the individual finds that he cannot function without having alcohol in his system. A medical condition known as *Delirium Tremens* which is characterised by violent restlessness and visual hallucinations is due to over-indulgence in alcoholic beverages.
4. *Acute Poisoning*: This is a fairly common occurrence, the individual goes drinking and drinks too much and dies of acute poisoning when alcoholic action arrests the functions of vital organs relating to breathing and heart-beat. Most of the victims die in their sleep.
5. *Drowning*: This is also relatively said to be common, the drunkard drowns in his own vomit, i.e., he vomits then the vomitus falls into the lungs because the epiglottis is not functioning properly due to the effects of alcohol poisoning on the organ whose function operates it. Stomach contents containing alcohol are vomited and inhaled into the lungs.
6. *Impotence*: It is now well established that prolonged over-use of alcoholic beverages causes impotence in males, and frigidity in females. These also may lead to the instability in the marital relationship.
7. *Accidents*: Fatal road accidents involving drunkards are to be regretted and appear to be on the increase, but like in other areas, statistics are not available to indicate this trend. I think that a limited study of these accidents and the autopsies of the victims would reveal a close correlation between drunkenness and fatal road accidents. In 1978, over 1,500 persons were killed in road accidents in Kenya, and certainly some of these if not the majority had involved the misuse of alcohol.
8. *Indirect Medical Problem*: In addition to the above, there is a whole range of medical problems that are related to the misuse of alcohol in the domestic circle either by the father (mostly) or by the mother. The money that would go to buy milk, eggs, meat or any other protein-giving foods is diverted to the buying of alcoholic drinks and thus cause malnutrition in small children. Tuberculosis is known to spread very fast among those persons who are

debilitated by chronic consumption of alcoholic drinks. Alcohol does weaken the consumer especially if he is in the habit of not eating his food well or regularly and such persons are more susceptible to infectious diseases than others.

(B) SOCIAL PROBLEMS

The kind of social problems the over-use of alcohol brings are varied and very often are generally overlooked. The majority of these start as individual or personal problems, but as everyone knows, the demarcation of personal domain from social domain is an academic exercise, for what affects an individual personally, has tremendous impact on his social relationships, his social roles and social obligations. Let us look at a few of these problems.

1. **Interpersonal Relationships:** Alcoholism takes a very long time to be noticed as a problem on the part of the individual as well as on the part of his associates, and by that time his or her social relationships have been clearly established. Marriages are already established and children are grown ups. The person who falls a victim of alcoholism destroys this kind of social network. A lot more problems may have been experienced by his/her immediate associates such as spouse, children, workmates, and other dependants. The family of the drunkard suffers greatly both financially and socially. The children may have to drop out of school, they may have to go on empty or half-empty stomachs as the parent has to meet his ever increasing expenditure on alcohol as he continually needs more and more quantities to keep his balance.

Divorce: Separation and frequent conflict within the family are quite common. Fights and general unhappiness are common characteristics of some alcohol-hit families.

2. *Violence:* The role of alcohol in crime, and especially violent crime is well documented. In a Ugandan study of criminal homicide of 501 cases, alcohol was found to have been present either in the victim, the offender, or in both victim and the offender or in the homicide situation in 37 per cent of cases. (Mushanga, 1974). This low rate of the presence of alcohol in these homicide cases was

attributed to inadequate or total lack of medical facilities for proper serological analysis of the offenders and victims' blood for the determination of the presence and level of alcohol in the blood. Most of the victims and offenders in homicide cases are in rural areas, where the majority of these cases take place, and it is there that facilities for detecting alcohol content in the blood are inadequate and in most cases non-existent. Studies from other parts of the world support this thesis that alcohol does play a major role in the genesis of violence. For example, a Sudanese study by Fluehr-Lobban of over two hundred cases showed that 18 per cent of the male homicides involved alcohol. (Fluehr-Lobban, 1974). In an earlier survey of homicide in Uganda, Tanner had reported that alcohol was present in the homicide situations in 38 per cent of the killings of men and 29 per cent of the killings of women. (Tanner, 1970). In a Philadelphia study by Wolfgang of 588 homicide cases, alcohol was found to have been present in the homicide situations in 64 per cent. (Wolfgang, 1966). In a preliminary survey of victims of criminal homicide within the domestic group, it was found that the wife was the most victimised person within this group in eight African societies and these killings were facilitated by the presence of alcohol. (Mushanga, 1976).

Alcohol is given as the general explanation of criminal homicide by the police and other administrations. La Fontaine has reported that "Officials of the police and Administrations say that drunkenness is at the root of the most crime of violence". (La Fontaine, 1960).

Intoxication with alcoholic beverages is related to crime in general and to criminal homicide in particular because of its effects on the brain. It functions by releasing emotions and by lowering cortical control over the manifestations of anger. (Wolfgang, *ibid*). Alcohol acts by arresting the functions of the Superego and by leaving the Ego free to respond to emotional states without further reference to socially and culturally approved ways. Very often the drunkard and the alcoholic commit homicide because of failure to regulate motor discharges especially then

these erupt as a result of persecutory, or jealous delusional states and hallucinations. Alcohol also is known to play a role in other kinds of crimes such as rape, homosexuality, robbery, etc.

3. *Absenteeism:* For the employer alcohol poses a special kind of problem. Very often the employer finds that some of his staff, and usually the more able and more hard-working ones, are infrequently reporting for duty; especially in the first part of the month. Wage earners, unlike highly paid senior officials, tend to over-drink when they get paid at the end of the month. This absenteeism can do a lot of harm to a business employer; and as for the government, the effect of absenteeism is inefficiency and unnecessary delays. Alcoholism also slows down production. The debilitated alcoholic performs at a reduced rate and indirectly affects the overall production because of reduced performance and efficiency.
4. *The Effect on Overall Economic Progress:* The effect of over-indulgence in alcoholic beverages on national economic progress is even more obvious. In rural areas where the general achievement motive of the masses may not be as high as in urban areas, over-drinking may help the spread of laziness, lack of interest in work, and neglect of work in the fields. The people may spend some of the most valuable time drinking or loafing when they should be either preparing the ground for planting or harvesting. This is very important especially in those societies where crops are planted and harvested at particular periods of the year. Self-employed villager, unlike factory, industry or office worker, has no master to keep an eye on his performance. Alcohol can cause a lot of harm in such situations when self-control is lost, interest in duty is reduced, energy to work is equally reduced, and a sense of direction is either lost or distorted.

In rural setting alcohol affects the consumer because of its relatively low cost as compared to the rate in urban societies. Lack of official, cultural and social control mechanism makes alcoholic consumption in rural areas a real social problem which if not checked can retard real progress.

WHAT SHOULD BE DONE*

Because the problem of alcoholic consumption is enormous, and because we have very little knowledge of the cases and the extent of drunkenness, one cannot offer a list of solutions but mere suggestions in the way of control rather than eradication.

1. *Study:* Alcoholism and its related individual and social problems is an extensive field which requires a serious study by experts in the fields of medical pathology, psychiatry, psychology, sociology and criminology and law. Rational control programmes cannot be drawn up in offices without people doing real research in various empirical situations, e.g., road accidents, homicides, assaults, rapes, divorces, separation, production decline, business failure and success, school performance, arrests for drunken driving, and the rest. In this regard, it is not unreasonable to suggest a national or an international institute for the study of alcoholism.
2. *Legal Instruments:* While it is suggested that drunkenness *per se* should not constitute a criminal offence; the law can be used profitably to control the consumption of alcoholic beverages. This has already been done in limiting drinking hours. It can also be used in limiting the importation of more potent, and therefore more dangerous alcoholic beverages such as gin, whisky, rum and brandy, over-pricing reduces the number of those who will drink (maybe it does not), but when coupled with restricted importation can have beneficial results. Restriction in licencing is also one way of cutting down the number of people who will drink. Reduction in the number of licensed bars may lead to reduction in the number of drunkards. This can be done by increasing the fees for such licences; so that only a few people can afford to buy the licence. Legislation too could be helpful in the control of illicit distillation of local alcohol.
3. *Police Control:* Police, chiefs and other agents of the law could be of great use in enforcing the law in relation to the control of alcohol. An inefficient and corrupt police or legal profession can hardly help to reduce the misuse of

alcohol. Police must be educated in their social roles not just in the legal sense but in their unique role in dealing with such a problem.

4. *Economic Consideration:* The argument that bars and breweries bring revenue to the government must be considered in relation to the costs we pay in terms of loss of individual persons in car accidents, and in alcoholic poisoning together with losses in manpower hours, and in slow downs due to reduced productivity and efficiency and debilitation. Equally important to be considered is loss of time on the part of rural farmers at planting and harvest times leading to enormous losses in crops which, in the final analysis, retards progress. Such determination, of course, cannot be based on guesswork.

Cost-benefits analysis would be of great assistance in this kind of situation where, because the government is in need of revenue, is unable to appreciate the anti-social effects of widespread drunkenness and alcoholism.

5. *Education:* Over the years, there has been a persistent call upon the government to start sex education in schools and colleges by the press and some leaders in Kenya. One wonders why these individuals never realise that there is even greater need for education in alcohol related problems. Social problems associated with the misuse of alcohol should form part of civic education in schools.

Education in the alcohol-related problems must be started at once, for both urban and rural societies. This education could be mounted on several fronts:

- (a) *Adult education classes:* The extra-mural department of the University is in the best position to start evening classes or public lectures by people who have some general idea of the evils of alcoholism such as doctors, priests, policemen, magistrates and health visitors and politicians. Extra-Mural tutors too could organise week-end seminars of local leaders such as primary and secondary school teachers, leaders of mothers' union and KANU leaders to discuss the problems of drunkenness and to put forward suggestions of what should be done.

- (b) *Radio/T.V. Programmes*: Instead of wasting scarce resources in entertainment with western films and football matches which do not involve our people, the T.V. and radio could establish a permanent programme, even a documentary could be developed to demonstrate to the people the evils that follow the misuse of alcohol. Radio discussions are equally important.
- (c) Schools and institutions of higher learning should adopt educational programmes for all. At present only students taking criminology and psychiatry have some lessons on alcoholism. Student-teachers too need to know a great deal about the use and misuse of alcohol as do theological students in seminaries, students in nursing, secretarial, police, prison and catering colleges. In other words, this kind of education must be extended to as many potential parents and potential leaders as possible. Alcoholism knows no boundaries, it does not discriminate between sexes, or between religious groups, or between income groups, or even educational standards; it affects all the people and it must be tackled by all people, and this can be done through an educational programme that aims at reaching all citizens and residents of the society.

In conclusion, I want to suggest that the earlier we start to be concerned about the nature of society we want to live in, the better the prospects. And I hasten to remind you of His Excellency President Daniel arap Moi's political and social philosophy generally known as "NYAYO", which when translated from Kiswahili means "footsteps" or even "footprints". He has appealed to all people to follow his NYAYO. Moi does not drink alcohol; and if people followed his NYAYO faithfully they should refrain if not from the consumption of alcohol, then at least from its abuse.

CHAPTER 12

PUNISHMENT AND DETERRENCE*

Punishment as a societal negative sanction for breach of society's conduct norms "...Involves the intentional infliction of pain and suffering upon the offender by official authority for the sake of some value assumed to be produced by the pain". (Vold, 1958:282). For the attainment of peace and amicable relations among men; and for the survival of the human species; societies, through millenia, have evolved very elaborate punitive systems, procedures and practices in the same way as the legal systems have evolved. No society is known that does not define certain behaviours as wrong, unacceptable, anti-social or being detrimental to the well-being of the entire society. When society defines, designates or singles out certain behaviour as unacceptable, it establishes the rewards for non-conformity and this reward for non-observance of societal conduct norms is what is called punishment. In the punishment of deviants, wrongdoers, criminals and other types of offenders, society assumes that such punishment has some intrinsic value or a set of values. And as we know of no society that has no rules of conduct norms, neither do we know of a society which does not impose some types of punitive sanction on its deviants. Law-making and law-violation are as old as man's civilization, and the two processes are, in a Marxian dialectical sense, inherent in human society as long as there is no perfection on earth.

According to Marx, deviation and its definition is a product of economic factors at play in a capitalist-oriented society. For Marx, law and the criminal codes will disappear when the communistic stage of human development is attained; when each gives according to his means and receives according to his needs and when the administration of men is reverted to the administration of things. (Marx and Engels, 1848).

According to Marx, to fight crime, you must fight capitalism and its materialistic corrosive elements on the human mind. It is interesting to note that some of Marx's observations on economic

factors are being seriously considered as can be seen from this quotation:

“Warring on poverty, inadequate housing and unemployment; is warring on crime. Money for school is money against crime. Medical, psychiatric, and family counselling services are services against crime. More broadly and most importantly every effort to improve life in America’s “inner cities” is an effort against crime”. (Report of the National Commission on *The Causes and Prevention of Violence*, 1969).

The value to be derived from punishment is what constitutes the most heated controversy in criminological schools of thought. What is the value of punishment? This question itself is as ancient as “What Causes Crime?” Both of these intractable questions are being answered in a more rational and scientific manner. The problem, all along, has been the disagreement between intellectual and academic contenders of the discipline of criminology as to how best to prevent the individual offender from repeating his offence or from similar undesirable behaviour. This is what has been called special or real deterrence. The second objective is to create fear among the general populace and to make it manifest that they will be treated in the same manner should they not refrain from such behaviour. This belief prevailed in societies (as it does in some now) where theoretical criminology and the knowledge of personality development, the socialization process, and the new ideas of the impact of ecological and other factors have on human behaviour were unknown. But as time went on, people began to know that crime, as they had discovered in medicine, is not a single phenomenon; and that there are as many different criminals as there are crimes and their causes. More importantly was the developmental idea that not all human beings will respond to given situations in the same manner. People began to question the value of punishment as a deterrent, especially the death penalty and even imprisonment.

As noted above, deterrence as a principle in punishment operates on two levels. On the first level it is assumed to act on those individuals who have actually been punished and therefore are most likely to have unpleasant experience of punishment and will not repeat the same behaviour or engage in similar behaviour. On the second level, deterrence is assumed to act on the attitudes of

the observers. Franklin Zimring has called this “general deterrence”. (Zimring, 1969). Zimring has categorized the threatened society, (the society in which deterrence is supposed to function) into two main groups; the first group is made up of those people whose personality organization is oriented toward the future. The other group is that of people who are oriented towards the present. Professor Zimring points out that “the future-oriented individual will be happy to forego a large gain today in order to enjoy a larger one next week. The person without a significant sense of the importance of next week will accept a lesser but immediate reward”. Professor Zimring continued to say that “...Since the unpleasantness threatened will always come after the commission of the threatened behaviour and is often quite distant in both time and probability from the temptation to act, the future-oriented person will pay greater heed to the possibility of unpleasantness communicated by a threat, while the less future-oriented person will be more willing to place a heavy mortgage on events removed in time and space” (Zimring, *op. Cit*). In this sense threats and punishment for deterrence will have very little, if any, impact on the present-oriented individual; but they have probably some effect on the rest of the future-oriented. The practical problem is that we do not, as yet, know who are future-oriented, and who would respond to deterrent threats in the form of punishment (Andenaes, 1963, Barnes, 1930, Bloch and Geis, 1964).

Another way of looking at a society is in terms of its response to threats and punishment for deterrence is to look at motivational orientation toward criminality. In other words, we ask ourselves, why do people or why do different people commit different crimes? In this way, we try to build a criminal typology which is purely constructed on motivation in the criminal aetiology. One view has been that man becomes a criminal when he is seized and used by the demon or the devil. Possession by evil spirits has been believed to be an explanation of criminality. When society's political elites are inclined to take this view then the treatment of offenders is likely to be directed toward expiation. The second view is that man has a free will; that he is able and capable of choosing between doing wrong or right. This is the view that tends to predominate among church leaders, politicians, businessmen and civil servants. When societal

leaders hold this view as an explanation of criminality, punishment is likely to be served and intended at reformation and deterrence. The third view is that advanced by Cesare Lombroso, the great Italian criminologist, that the criminal is a biologically different type, that he possesses somatological characterizations that single him out as a throwback to earlier primitive types. Lombroso believed that a criminal can be identified by looking at his anatomical features (Siegel, 1992:35-36).

The present-day controversy is not on the physical traits but on personality traits with sociologists stressing the impact of socialization process – the transmission of a group's culture; the psychologists have been insisting that it is early childhood experience of frustration and aggression that determine the individual's behaviour, while some geneticians have attributed criminality especially violence to the presence of an extra Y chromosome. All these views lead to different types of programs that are meant to deter crime. If the sociopsychological belief is dominant, long terms of incarceration or life imprisonment or death penalty is the preferred deterrent.

The psychological view in some cases may be reinforced by the psychiatric explanation of feeble-mindedness and mental abnormality. When this view of explanation predominates the handling of offenders is most likely to be oriented toward treatment and rehabilitation or seclusion from society, as in the case of sociological determinism of some sociologists, in which the treatment of offenders is not to be oriented toward deterrence. In fact, general acceptance of punishment for deterrence is indicative of lack of clear identification of criminal causation, and deterrence as an explanation for general punishment becomes a rationalization for societal revenge on individual offenders; as Barnes has noted, apologists of punishment argue that it deters crime, though the psychological basis of punishment is social revenge, but this is never acknowledged (Barnes, *ibid*). For the psychiatric, offenders and most of the severe psychopaths, the question of deterrence cannot be raised because of the nature of the mentality of the offender. Disorders of mental processes are advanced and are acceptable in most criminal justice systems as defence, but strangely enough no criminal justice system considers sociological determinism as a decisive factor in certain

types of crime especially those of sex and violence. Some of the mental defects as many social anthropological studies have shown, are outgrowth of sociological and cultural milieu. So much so that what constitutes mental abnormal behaviour in one society is not necessarily so in another society. There is great need to give proper consideration to cultural behaviour as much as is given to such behaviours which result from mental disorders. Man is born free, and thereafter he is in chains, as Rousseau put it; and they are the social and cultural chains that must be given attention in an attempt to explain some types of criminality. Professor Frank Hartung has observed that "certain cultural circumstances (underworld, marital, and others) often make (certain crimes such as) murder imperative; thereby nullifying the supposed deterrence effect of the death penalty" (Hartung, 1952).

The last question that is to be discussed here is deterrence. How much do we know of the would-be offences that have not been committed because the would-be offenders have been deterred by types or severity of punishments of past offenders? Does punishment deter all crimes or certain types of crime?

There is hardly no punishment that has been inflicted on a human offender that has not been claimed to deter the same person and others from crime. Death penalty, flogging, imprisonment, fines, rastication, are some of the commonest forms of exacting conformity through punishment. There have been supporters and opponents of punishment in all ages and societies; and it is appropriate to look at some of these views regarding deterrent punishments.

DEATH PENALTY

Few topics have, at least in the field of social science, been the focus of such heated and prolonged arguments as the question of capital punishment. Death as a penalty is as old as human society. The Greeks, and Romans used death as punishment for deterrence. The Romans were the earliest to abolish the death penalty in 384 B.C. The Romans based their decision to end capital punishment on such views that innocent men are sometimes executed when there is a miscarriage of justice. This has also been of concern in Britain, in

fact it is believed that “The number of persons sent to execution by the courts, and afterwards proved to be innocent, has been counted by the hundreds in Great Britain, and must probably be counted by thousands, taking in even only the civilized states.” Another writer is quoted as saying:

“How many innocent men undergo the death penalty will never be known ... Sir Frances Mackintosh declared that at least one innocent man was hanged by the High Court in England every three years. How many do you suppose there are in our five hundred American criminal courts, with their less exact procedure, executed every year?” (Gardner, 1956).

Another question which led the Romans to abolish the death penalty was whether death penalty was a punishment. Gaius Caesar argued negatively saying that, “So far as the penalty is concerned, I can say with truth that amid grief and wretchedness death is a relief from woes, not a punishment; that it puts an end of all mortal ills and leaves no room either for sorrow or for joy”.

A recent abolitionist has written:

“Is an execution any punishment at all? I deny it. To kill is not to punish, but it simply puts him out of the way and beyond all human punishment... If by death we cut off his joys and happiness, in the same measure we cut off his sorrow and humiliation... Death is asylum, impregnable against punishment. Death is nature’s haven and refuge from unbearable conditions. Death comes to the rescue, the instant pain and suffering reaches its limit, and still we call it nature’s great and final balm for all extreme suffering a punishment... the very reverse of its design by nature”.

With the fall of the Roman Empire, and the rise of new political systems the death penalty was restored and perpetuated by the church and it was in 1530 that Martin Luther wrote to condemn the death penalty for blasphemy and recommended the softer punishment of exile. As time went on the church assumed and enjoyed the right of pardon, the benefit of the clergy. The prisoner was safe if he could find his way into a church or monastery where he would be required to prove to the church leaders that he was a faithful Christian and literate. The test was to read aloud the first three words of Psalm Li, “Miserere Mei, Deus”. This is what came to be known as the “Neck

Verse". The practice of the benefit of the clergy was finally abolished in 1827 (Sellin, 1967; Durant, *History of Civilisation*, vol.VI, p.421).

Modern arguments for the continued use of the death penalty is that it is the most effective treatment that deters the individual offender for good, and those who witness his execution. The second argument is that the death penalty is economically cheaper, but this is not usually advanced as much as the deterrent effects of execution. The third is that it is the only reliable penalty that permanently incapacitates the offender (Siegel, 1992:540-42).

The arguments against the death penalty as a deterrent are based on findings of research carried out in the U.S.A. and Europe. They argue that the criminal is permanently removed from society, and therefore he cannot be reformed or rehabilitated, that the death penalty is contrary to the highest Judaic Christian ethic which stresses forgiveness; that it is a barbarous and a primitive lag in a modern society, and more important the abolitionists say that the practice brutalizes society; and here we recall Emile Durkheim's admonition that in order for murders to disappear, the dread of bloodshed must be greater among those social strata from which murderers are recruited, but that the dread must first be greater throughout the entire society. This means that the more the people are exposed to violence and attitudes that put a low value to human life, the more they are likely to express their conflicts in aggression and violence. Death penalty is also opposed because occasionally it is the innocent who gets sentenced to death. The argument is that "It is better that a thousand guilty go free than one innocent man be executed." (Siegel, 1992:542). Michael Radelet and Hugo Bedeau have claimed that there have been about 350 wrongful convictions in U.S.A. in this century in which 23 were executed. They have estimated that every two years, three death sentences are returned in which the defendant was falsely accused. In addition to 23 who were executed, 126 served over six years before the error was discovered; 39 served more than 16 years while eight died during imprisonment (Siegel, *ibid*).

To determine the effect of the death penalty as a deterrent, comparison has been done in U.S.A. between states

which have abolished the death penalty and those which still retain it. The best comparison is that of states which are similar in social organizations, in the racial composition of the population, in economic and social conditions. When Sellin did examine these variables, he came up with this conclusion that, "The trends of the homicide death rates of comparable states with or without the death penalty are similar", and the following are observations made by Professor Sellin (Sellin, *ibid*).

1. The State of Arizona had no death penalty between 8 December, 1916 and 5 December, 1918. Two years before the abolition there were 41 murderers convicted of the offence; but there were 46 such offenders during the two years of abolition and 45 during the two years that followed restoration.
2. Colorado abolished the death penalty on 29 March, 1897 and re-introduced it in 1901. The annual average number of convictions for murder was 16.3 during 1891-1896, 18 during 1897-1900, and 19 during 1901-1905.
3. Iowa abolished the death penalty in 1872 and restored it in 1878. The annual average number of convictions for murder during the seven years prior to abolition was 2.6; during abolition 8.8; and during the next seven years after restoration, the rate was 13.1.

The distinguished academician concluded that the death penalty has no discernible effects on homicide rates, i.e., it has no discernible deterrent value that it is assumed to have. Perhaps one of the most interesting views about the death penalty as a deterrent is that expressed by Morris Wasser, a condemned criminal who was awaiting his execution. Mr. Lewis Lawes, the Warden came to tell the prisoner that the governor had refused to grant a last minute respite; the prisoner said, "All right, Warden, it does not make much difference what I say now about this system of burning a guy, but I want to set you straight on something":

Warden: "What is that?"

Prisoner: "Well, this electrocution business is bunk. It don't do no good, I tell you, and I know, because I never thought of the chair when I plugged that

old guy. And I'd probably do it again if he had me on the wrong end of the road".

Warden: "You mean, that you don't feel you've done wrong in taking another man's life?"

Prisoner: "No, Warden, it ain't that. I mean that you just don't think of the hot seat when you plug a guy. Something inside you just makes you kill, 'cause you know if you don't shut him up it's curtains for you". (Sellin, in Johnston, Savitz and Wolfgang, 1962).

Karl F. Schuessler writing about the efficacy of the death penalty as a deterrent vis-a-vis criminal homicide says that, "These previous studies have uniformly concluded that the death penalty is inconsequential as a deterrent and that the relative frequency of murder in a given population is a function of the cultural conditions under which the group lives" (Schuessler, 1952). William J. Chambliss says that "...when we compare a state where capital punishment is a possibility with another culturally similar where it is not, we arrive at the same conclusion: There is no difference between the percentages of murder in the two areas. Even an execution that is particularly well publicized has no consequent effect on the propensity of others to murder" (Chambliss, 1966).

Ample evidence is available to show that the death penalty does not deter murder and other crimes of violence. But also it is of very little value as a deterrent in certain crimes such as robbery (such as kondo). This is especially so among the social strata where life has little to offer in the sense of enjoyment. To people who have no social status to stain, nor property and wealth to leave, death cannot be a threat. This is why it is possible for such robbers armed or not armed will try to rob, even if they know that if caught, they face a death penalty. But they go on. This should cause us to ask ourselves whether the penalty of death is effective as a deterrent; apart from the incapacitation of the executed offender.

Fines: A fine is normally not imposed as a punishment for deterrence, at least not in the general sense. Fines are now the preferred

court punishment for modern sociologists and psychologists. The argument is that if a person steals, he does so in order to acquire material wealth, and if he is punished by being fined, he will feel the penalty because it takes away that which he desires most, but if he is punished in another way, say, as with a jail sentence, the punishment is not directly related to his immediate interests. Others argue that a fine cannot be of use as a general punishment because some offenders do not have the financial background to be able to pay the fine. But the point is that there are extremely few people who have nothing, and those are the ones who are most likely to prefer going to jail rather than pay the fine. Fines can be imposed even to be paid by instalments. Fines, in the form of restitution, could be imposed even in murder and manslaughter offences. Whatever property the offender has could be shared between his family and the family of his victim. But at present at least in East Africa, families and dependants of victims of homicides get nothing either from the state or from the offender. Fines have been known to be very effective as a deterrent in traffic offences and other occupational crimes. A bank clerk who contemplates embezzling USD 500,000 will think twice if he knows that if he is convicted, he will have to pay a fine which may be three times the amount stolen, which may mean that he will have to work for several years before the fine is paid.

Imprisonment: Prisonisation is the most commonly used form of punishment for deterrence. There are at least over a million persons in the world's prisons today. In 1970 there were 11,000 prisoners of the Federal Government in the United States.

In 1996, *Time* magazine was boasting about crime decrease in America due to large number of people in prison, reported that "The U.S. prison population has more than doubled over the past 15 years, which means that many repeat offenders have been taken off the streets. But finding a place to put them all is getting harder. At California Institute for men, in Chino, prison officials have had to turn the sports facility into a bunk room." And that:

"At year-end 1980, 1 in every 450 U.S. resident were incarcerated; by year-end 1994, that figure grew to 1 in every 175 which means that there were over one and one half million prisoners in a population of 256 people." (*Time*, 15 January, 1996:20).

Time goes on to say that in Texas alone, 659 people were in prison in every 100,000; that is 6590 in one million, that is to say that a district such as Iganga, would have over 5,000 prisoners, most of them serving long prison sentences of up to 30 years. That is how America hopes to rid itself of crime and reduce black population because nearly 46 per cent of prison inmates are black people who form only 12 per cent of the entire population.

Correctional personnel, such as judges, lawyers, police and prison officials have a general belief in the efficacy of imprisonment as a deterrent on individual and groups alike. That prisonisation deters crime, this is self-evident because of removal of the criminal from society. The individual criminal will be deterred as long as he is behind the bars; but whether his incarceration experience deters him once he is out is a moot question. Sociologists and prison wardens believe that once in prison, ever in prison. Longevity too is another moot question. *The New York Times* of 9 April, 1971 reported that a Dallas jury sentenced a murderer to 2,500 years in prison. This is a great deterrent in the individual offender. The correctional and law-enforcement personnel have great faith in length of prison sentence, but unfortunately no judge, police or prison officer can empirically prove that the length does deter crime. In fact, some of the more enlightened law enforcement personnel point out that prisonisation hardens offenders because the newcomer inmate gets contaminated by being exposed to senior criminals, and because of the stigma that prison sentence carries with it, the problem of labelling a man as a criminal, leading to self-conception as a criminal, and because of social ranking within the prison, that is, he may get out after achieving a higher status in prison than he ever acquired in free society, and as Professor Fitzgerald says, all of these "...combine to render prison sentence as a passport to the underworld".

But this does not mean that prisonisation is wholly useless as a deterrent. A court clerk who knows the embezzlement of USD 1500.00 is punished by five years is most unlikely to entertain the idea, but if he knows that the maximum is only six months, he will, most likely, execute his plans of embezzlement. But empirical observations in the U.S.A. show that imprisonment is not effective as a deterrent. Ramsy Clarke, a recent Attorney General of the U.S.A. writes that

“the most important statistic on crime is the one which tells us that 80 per cent of all felonies are committed by repeaters” (Clarke, 1970). This clearly shows that either there is something wrong with the correctional system of rehabilitation as some prefer to call it or prisonisation as a punishment for deterrence does not work. Ramsy Clarke calls prisons factories of crime. But in spite of these clear and known facts that imprisonment does not deter crime, many countries continue to expand their prison services instead of closing them. Professor Freed says that, “The guiding principles of the prison system in South Africa are to build up and supplement in the criminal subject elements necessary to prevent recurrence of crime...” (Freed, 1963). The opening sentence of the Prison Annual Report of Tanzania 1965 says that, “This service, is as mentioned in the previous reports, in the process of evolving policy which would make the prison administration service not only for a punitive but essentially a reformative one, capable of converting prisoners into good citizens after release from custody”. The same report shows that of 42,883 convicts, 29,656 were first offenders, and 13,227 or 31% were recidivists, which means that recidivists were nearly 50% of the new offenders (Tanzania Annual Report of Prisons, 1965). This can only prove one of these; either the released offenders have been reinfected, or suffered a relapse or the reformation through prisonisation had little effect in deterring these offenders; and if they were not deterred when they experienced the treatment how does the system expect to deter those who only hear about prison and have little actual experience of it.

The conclusion that we have to make from these observations is that punishment as a deterrent does act against certain criminal acts, but is very inconsequential in others; again these will depend on the nature and type of punishment. Death penalty as a deterrent has been clearly and almost conclusively documented as being of no avail to the crimes of violence such as murder and rape. Society which produces and rears criminals is not to be changed merely by hanging or sitting a few individuals in the hot seat. The best way to deal with the problem of crime is not to create more laws, but to do away with the social, economic, political and ecological conditions that imperceptably turn people into criminals. No amount of hanging

and incarceration can ameliorate the problem, but rational and seasoned reasoning based on verified generalizations and empirical research findings and practical application of the findings will be of some help, but not punishment. Without research and study of crime in a given society, imported ideas are bound to produce doubtful results.

CHAPTER 13

CAPITAL PUNISHMENT: A VIOLATION OF HUMAN RIGHTS*

The penalty of death for wrong-doing is not a modern invention, nor is it a universally held penalty. Death penalty is reported to have been one of the most commonly used method of punishing the most of crimes in certain countries of Europe and Asia. In England, as late as the middle of the eighteenth century, they had over two hundred offences for which the offender could be punished with death. In that country a person could be hanged for a minor offence such as cutting down a tree, or stealing property worth five shillings (Gardiner 1956). Shoplifting was a capital crime and in 1820 when the House of Commons passed a Bill to abolish this law, the House of Lords threw it out, the majority of those who voted against the Bill included all the judicial members, one Archbishop and six bishops. The death penalty was not restricted to old offenders only; for in 1808 a boy and his sister, aged 7 and 11 respectively were condemned to death at the Old Bailey for stealing two penny-worth of children's pant; this penalty was used so widely that practically any kind of crime could be punished with death; for example in 1834, the House of Lords was still debating whether or not to abolish the death penalty for stealing a letter! (Gardiner, *op. cit.*).

Similar situations prevailed in other parts of Europe where written history exists. Far back into pre-Christian era, we find that in Athens although the penalty of death was not awarded to citizens, it was reserved for slaves and other non-citizen residents for a variety of crimes, (Sellin, 1976). In Africa, where written history did not exist, we know very little; and this is that the death penalty was in many societies, widely used for a variety of offences especially those which are of a violent nature such as rape, homicide and destruction of property. In some other communities, the death penalty was prescribed for such offences as pre-marital pregnancy (Mushanga, 1974). In cases of homicide, the offender was killed by the relatives of the victim if he was caught before he sought

protection from an impartial clan elder who undertook to arrange for blood compensation (Mushanga, 1974).

In some other societies, thieves were killed by their captors. For stealing bananas, a thief was killed by inserting unripe bananas into his rectum. The bananas were inserted one by one till some internal organs were ruptured and the victim died of internal haemorrhage. Among the Kikuyu and Meru people of Central Kenya, thieves were put to death by enclosing them in bee-hives and rolling the bee-hive down the a slope of a hill. On the whole, there appears to have been no generally accepted method of inflicting the death penalty and the list of crimes for which people could be punished with death varied from place to place. The motive for the death penalty for all kinds of crimes for which it was awarded was in most cases punishment or revenge; deterrence appears to have played a minor role in the theory and practice of capital punishment.

The aims of the death penalty in present-day Africa constitute a conglomeration of ill-defined theories in penology and philosophy. These range from vengeance to punishment and deterrence. It must be noted that present-day penal codes in Africa do not reflect African philosophy relating to the questions of crime and punishment. In almost all cases, the wide use of the death penalty in Africa was systematised by colonial rulers. For the colonialists, capital punishment served multiple functions, it served as a deterrent (so they believed), it rid society of dangerous persons, and of course, they may have thought it to be economic.

(A) DEATH PENALTY AS A DETERRENT

There are many people who believe that the death penalty is a deterrent and especially when carried out in public. This kind of belief, like all other beliefs, is based on no empirically verifiable truths; people simply believe that it is so and hope that it is. It has taken many years for even criminologists to accept the truth that the death penalty in fact is of no special deterrence. England abolished public executions in 1868 largely because of the evidence before the Royal Commission of 1866 that of 167 persons who had been under the sentence of death in one town during a number of years,

164 had themselves witnessed a public execution. In recent years, in Nigeria, when thieves were being tied on trees for public shooting, other thieves were busy stealing tyres and headlamps from cars. In modern Africa, a variety of crimes are punishable with the penalty of death largely for the assumed deterrent value of this penalty; and the list of these is being increased to include armed robbery as a capital crime even when no person is killed or injured. The idea is that others will not do likewise. Franklin Zimring and Gordon Hawkins have referred to this belief in deterrence by legislative, judicial and administrative officials as an ideology (Zimring and Hawkins 1973). It is an ideology whose tenets are based on mere beliefs and therefore highly questionable.

This problem of the death penalty as a special deterrent has been debated on for a considerable length of time. We now possess enough evidence to prove that the death penalty as a deterrent is not only an ideology but a myth. Barnes has stated:

“History reveals the most varied and numerous proofs that there is no close correlation between the severity of the criminal code and the infrequency of crime. Likewise, as Warden L.E. Lawes and others have definitely proved, the statistics in regard to the frequency of murders where the death penalty exists and where it does not exist fail to support the thesis that the death penalty actually exerts a deterrent influence. The statistics which we have show that there is no ground whatever for holding that murder rate increases when the death penalty is abolished ... In no single instance is there evidence of a permanent increase in homicidal crime as a result of abolition, in many, there has been a decided decrease” (Barnes, 1930).

Professor Thorsten Sellin, perhaps, the foremost authority in the world on capital punishment, carried out a study with a view to determining the effects of abolition of the death penalty in some of the states of U.S.A. and concluded that if any conclusion can be drawn from the study, it is that there is no evidence that the abolition of the death penalty causes an increase in criminal homicides or that its re-introduction is followed by a decline; that the explanation of changes in homicide rates must be sought elsewhere (Sellin, 1967).

(B) DEATH PENALTY IS NOT A PUNISHMENT

The question as to whether the death penalty is a punishment or not is a very interesting one; for it calls for a re-examination of the theory and practice of punishment. Deterrence, as we noted above, is one such aim which is served by some other kinds of sanctions or penalties in some other particular kinds of crime such as fines for violation of traffic rules. Punishment as a deterrent on the individual level cannot be said to function when the person so punished is dead. To punish for general deterrence too is not possible when the person dies and others soon forget about his death and what led to it. The individual person that is hanged cannot be said to be punished when he does not live to be able to appreciate the consequences of his misdeeds. It is his dependants, friends and acquaintances that suffer by the act of his death but not the executed person. Perhaps what may be said to constitute a punishment is the time of waiting for the day of execution, but otherwise the act of taking a man's life puts him far beyond the realm of human suffering which may be intended in the act of death penalty.

In regard to whether the death penalty is a punishment or a deterrent in the African conceptualisation, it would appear that it is neither of the two but a process of removal of an undesired person; especially in the interpersonal kinds of violent crimes.

In other kinds of crimes such as robbery the offender is subjected to humiliation and suffering for both punishing him – punishing him so that he suffers physically, socially and mentally – and deterrence of others, but death being brought about after these two objectives have been realised. In the final act of dying, there is no punishment; punishment lies within this process of bringing about death.

PUBLIC OPINION AND DEATH PENALTY IN AFRICA

In Africa, public opinion represents the opinion of the political leader (Mushanga 1977). In societies where the bulk of the people are illiterate, and in those where the press is not all that enlightened or free to play its role as a medium of mass education in matters of general concern, public opinion is not static, it changes with current

opinion of those who shape it, or those who define it. In Africa, it is the opinion of the political leaders usually of one leader. People change their opinion when new ideas are made available to them. To illustrate this point; a group of under-graduates at Makerere in 1972 were asked to write down on a piece of paper of what they thought should be done with murderers, and armed robbers. Almost 90% of the responses were in favour of capital punishment for these crimes. After one academic year studying criminology and sociology of deviance and crime, the same students were asked to write down what they thought should be done with such offenders; almost 90% stated that they strongly disapproved of the death penalty. Public opinion is shaped by education, by indoctrination and this becomes much more easier in largely illiterate populations. Another point which must never be overlooked is that public opinion is not always right; nor is it necessarily always correct; and in some situations, it is not the numbers of those who are against or for the issue at hand, but a few of those who matter politically.

In Africa, public opinion is nowhere nearer to influencing the trend of events whether these are political, economic or of a universal nature; but with the right kind of education which will put a higher premium on human life and dignity, positive public opinion could be expected to emerge and also to be respected. Public opinion is now being used as a rubber stamp to legitimise brutality, inhumanity and general nastiness by military regimes all over the continent for political or economic exigencies. Public opinion in regard to the penalty of death will emerge when educators, preachers, pressmen, politicians and all opinion leaders begin to discuss this important matter, but at present, one hardly sees any interest in this topic. The press, the churches, the university are quiet as if they are unaware of this evil, which finds its widest application in Africa. The fact that no single independent country in the whole of Africa has abolished this penalty shows that there is nothing like public opinion in this regard. The Portuguese had abolished the death penalty in Angola and Mozambique long before these became independent.

Time has come for Africa to understand that political, economic and social programmes developed and designed overseas are not necessarily suitable for local needs. Africans must be encouraged

to examine, to evaluate and make recommendations on these programmes that are “made in England”. These programmes designed by “experts” are our greatest concern. Our inability to criticise and question the utility of “ready made” designs is our greatest failure. Theories of education, of beliefs, of politics and in our case, those relating to the treatment and punishment just like that of imprisonment, has or so long been neglected, almost forgotten, never raised in councils and it is important for all of us to consider it as a real major issue that concerns not only the victims of it or those who carry it out but all of us as citizens of our respective countries.

CAPITAL PUNISHMENT AS AN ACT OF VIOLATION OF HUMAN RIGHTS

Capital punishment unlike any other penalty, is completely devoid of any element of reformation, rehabilitation and reintegration. As a penalty it stands alone as a unique, unkind and unusual penalty that universally violates fundamental human rights; the right to life as stipulated in Article 3 of the Universal Declaration of Human Rights. The first article of this Declaration states that “All human beings are born free and equal in dignity and rights...”; therefore, the status of bondage, of inequality, of subjugation and of all man’s inhumanity to his fellow man including condemnation to death are contrary to the Universal Declaration of Human Rights, implying that no one, whether he be an individual or a group of individuals (in the name of the state) has a right to take away the life of another human being. Life being the basic gift or possession man has on earth is not a property of exchange, e.g., for wrong conduct in society. In the act of capital punishment, the state engages itself in violation of a superior law, the international, the moral law which is above all other laws which are not based on local, usually sectarian interests of the more powerful. By putting a person to death for whatever offense he has committed, the state engages itself in criminal homicide in which the victim has no avengers. The state cannot hope to reduce or eradicate whatever crime it punishes with the penalty of death by itself engaging in criminal homicide.

Capital punishment has very often been defended on religious grounds; that when the Lord spoke from Mount Sinai to his people,

after having told them that a loyal servant's ear should be "bored through with an awl" to indicate perpetual servitude, he ordained that "He that curseth his father or mother shall surely be put to death," while "If men strive, and hurt a woman with a child, so that her fruit depart from her, and yet no mischief follow, he shall be surely punished accordingly as the woman's husband will lay upon him; and he shall pay as the judges determine. And if any mischief follow, then Thou Shalt give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burning for burning, wound for wound, stripe for stripe." (Exodus Chap.XX).

The doctrine of an eye for an eye, or what is commonly known as *Lex talionis*, or the Law of Moses, is the most commonly cited and most misinterpreted biblical injunction in this regard; especially by those who are inclined to be over-emotional; for neither the church nor the state gives any support to the idea that vengeance should have any place in penology. Vengeance and feuds and retaliation are not attributes of the "modern", "civilised" man. God himself taught forgiveness, and Jesus suggested to all his followers to forgive those who trespass against them seven times seventy; he did not, however, say what was to be done after so many times of forgiving but we can emphatically state that what he meant was continual forgiveness. In 1948, the then Archbishop of Canterbury in a debate in Parliament said that:

"Within the church itself always, and in the world so far as is practicable, the law of Love, with its power to forgive, to convert, to reform and to re-fashion must permeate and shape the application of the law of punishment". (Gardiner).

And later, regarding the law of Moses, "An eye for an eye" the Archbishop stated that,

"It is well to remember that in its origin it was a restraint upon vengeance. It does not require that equivalent punishment, but it says that no punishment should go beyond that limit; no more than an eye for an eye, and no more than one tooth for one tooth."

An eye for an eye, or a life for a life is an extremely difficult penalty to enforce. What would be the penalty for one who kills two people; what of one who is toothless who breaks a tooth of another; what

would be the penalty for rape? An eye for an eye was one of the great advances in the history of penal reform as well as in moral development of mankind in that it replaced a penal system which inflicted greater suffering on the offender than the victim had received from his aggressor.

One other point that those who cite scriptures in support of capital punishment should take note of is that in his wise judgement, God did not sentence the first murderer on earth to death when Cain killed his brother Abel; God punished Cain by branding and banishment. In the book of Ezekiel, God advises that "As I live, saith the Lord God, I have no pleasure in the death of the wicked, but that the wicked turn from his way and live." To go on with biblical injunctions, the Ten Commandments include one which simply says, "Thou Shall not Kill," this commandment is not qualified, it does not go on to say Thou shall not Kill unless one has also killed, or has raped, or has robbed, or has been plotting against the state. The order is not to kill may you be an individual, a mighty prince of state. Christian legislators, jurors, judges who support capital punishment have erred and deviated from the holy scriptures. The law of Moses, that is, "An eye for an eye", was given to the Jews, but it is important to take note that as time went on, the Rabbis began to deprecate the infliction of the death penalty in more than once in seventy years, the people were called murderers, and some Rabbis taught that once in seventy years was far too frequent to be tolerated, (Gardner, p.84). Religion therefore, and especially Christianity does not approve of the infliction of the death penalty to criminals; for theirs is a God of mercy and full of forgiveness and love. Perhaps the most enlightened view of the doctrine of "An eye for eye" is that of a mother whose daughter had been murdered and her murderer had been recommended for a life imprisonment by the jury in a Los Angeles Court in November, 1960. The judge had in fact expressed his divergent view favouring capital punishment to life imprisonment. This is what the mother of the deceased said in a letter:

"I cannot believe that capital punishment is a solution - to abolish murder by murdering, an endless chain of murdering. When I heard that my daughter's murderer was not to be executed, my first reaction was immense relief from an additional torment; the usual catastrophe,

breeding more catastrophe, was to be stopped, it might be possible to turn the bad into good. I felt that this man, the victim of a terrible sickness, of a demon over which he had no control, might even help to establish the reasons that caused his insanity and to find a cure for it. Maybe he became what he is because of unnamable humiliations and rejection. To become useful would be a way to cure him ... My daughter was against capital punishment. When she was eight years old she came back from school one day and told me a little boy had thrown a glass of water over her. "And what did you do?" I asked her. "At first" she said, "I wanted to do the same to him, but I suddenly saw myself doing what he did ... He would have won." As she grew up, this idea grew into a desire to help the destroyer. "If it is to be "an eye for an eye and tooth for a tooth", this will soon be a blind and toothless world". (Koestler and Rolph, 1961:25).

Not only is capital punishment a violation of human rights and divine law, it is also inhuman, unkind and humiliating and very anti-social, and only men of hearts of stone can continue to be in favour of the death penalty to be inflicted on offenders. In most cases, almost the world over, the death penalty is inflicted in a discriminative manner. It is inflicted on males more frequently than it is inflicted on females; it is inflicted on the less fortunate members of society, that is the poor, the less educated, those with little or no political influence and in areas where racial conflict is rife, it is the members of either the minority as is the case of the Blacks, in U.S.A., or members of a politically powerless majority, as is the case in South Africa. In those countries, capital punishment has and is an extension of race laws that are promulgated to suppress the oppressed group.

Differential infliction of the death penalty raises more problems and doubts in the law of homicide; for example, in 1967, in the whole of the United States, only one person was executed. (Johnson 1968:441). Questions can be raised in regard to this case, why was this person singled out for execution, and why were the rest of the condemned persons not executed although they were on the death row? The social, economic, educational, political and racial status of the executed person must have influenced the determination to carry out the death sentence.

Perhaps one of the most detestable features of capital punishment is that it is sometimes inflicted on *innocent persons*. Otto Pollak, has in fact shown that the occurrence is more frequent than is generally known. (Pollak, 1952).

Errors of justice are especially likely to occur when evidence is circumstantial in nature. Other cases result from false identification; false confession and fallibility of human judgement. If these cases have been reported to have happened in countries where law enforcement personnel are better trained, we would expect the errors of justice leading to the execution of innocent persons to be much more frequent in countries whose criminal justice systems are in the process of formation (Siegel, 1992).

Finally, one would be interested to know what would be an alternative to capital punishment. Nations that have not abolished the death penalty have often argued that there is no suitable secondary punishment; that the death penalty is a unique penalty with deterrent value; that it is the only way to rid society of dangerous elements. Obviously, the best alternative to the death penalty is life imprisonment. Life imprisonment geneally means imprisonment for a period of time and never means that the prisoner shall be kept in prison until he dies. The actual periods are determined by Government officials such as Ministers in accordance with the circumstances of the individual cases. In some countries, life imprisonment may mean that the offender is to be in prison for at least seven, ten or fifteen years.

In Uganda, life imprisonment means twenty years in prison (Mushanga, 1975:147). Arguments have been raised against life imprisonment. That it is cruel, that it is much kinder to hang these offenders as mercifully as possible rather than to leave them in prison in conditions in which they would tend to deteriorate after ten or twenty years. It must be considered very immoral to prefer death penalty to life imprisonment.

Others have opposed life imprisonment because, they say, "Life prisoners are dangerous to guards and other inmates". This, it has been shown, is unfounded. Prisoners who are sentenced to life imprisonment are known to be among the best behaved in

prisons. Reports from countries where the penalty of death has been abolished show that murderers are no more likely than any other prisoners to commit acts of violence against officers or fellow prisoners or to attempt to escape; on the contrary these reports show that in all countries murderers are, on the whole, better behaved than most prisoners (Gardner, 1956:59). Prisoners serving life sentences have a special motivation to good conduct because the time they have to serve largely depends on their good behaviour.

There have been some people who have expressed fear that if condemned offenders are not executed and kept in prison, they will sooner or later be released only to commit further murders. This kind of reasoning must be dismissed outright as we have ample evidence to show that this in fact is not the case. That most criminal homicide offenders who are the most commonly condemned, find themselves in this class of criminals because of yielding to temptation under the pressure of a combination of circumstances unlikely to recur. The British Home Office stated to the Royal Commission that:

“It is a rare thing to find that a reprieved murderer had been guilty of any previous crime of violence. That is a rare thing”. (Gardiner:59).

One further point to make is that once life imprisonment is substituted for the death penalty, the prisoners must be treated just like any other long-term prisoners. This means that condemned but reprieved offenders may also be considered for parole after serving some time in prison; after all, all reports about released criminal homicide offenders show that these offenders hardly ever recidivate. Gardiner has in fact reported that, “No other reprieved released murderer in our history has ever been convicted of a further such offence, nor has any reprieved murderer ever killed a prison warden”. (Gardiner, *op. cit.*). In the majority of countries where the death penalty is in force, the number of those who are condemned and eventually get executed is extremely small compared first to all convicted and condemned felons, and secondly to those who are indicted for criminal homicide.

It is unfortunate that all the world over and through history, homicide has continued to evoke fear and to be punished with death while it is one of the least committed offences, and the one

for which the majority of the perpetrators act in culturally defined situations. Studies in other parts of the world, notably in England, U.S.A. and Germany, show that criminal homicide offenders may be divided into (a) the insane, (b) those of abnormal mind with diminished social responsibility, and (c) the remainder. Gibson and Klein have shown that in England and Wales, between 1957 and 1968, 205 cases of criminal homicide were processed in courts and that 109 or 53.2 per cent were committed by persons that were considered to be abnormal. These abnormal offenders need not bother anyone provided they are diagnosed and put under care of a competent and trained psychiatrist. The problem is that in poor countries where facilities are inadequate, the determination of mental illness is generally a duty of the general doctor and the average general doctor has no better view of mental illness than the magistrate or the policeman. Kozol, Houcher, and Garofalo have shown that there are persons who suffer from a condition they termed "Dangerousness", and that these can be treated (Kozol, Houcher and Garofalo, 1972). Even in pre-colonial Africa, the murderer who was known to be insane was, in the majority of communities, never subjected to any socially accepted sanctions. The problem, again, is that the really dangerous persons, particularly the aggressive psychopath, the hypomaniacs, and some types of epileptics are easily mistaken as "normal" individuals and only well-trained and experienced psychologists and psychiatrists can differentiate this class of people from the rest. To inflict death on such offenders would be an extreme act of inhumanity.

The second class of offenders, those we have called "abnormal" is even much more difficult to identify. Studies by Carothers in Nairobi, 1948, Lambo in Nigeria 1961, (Lambo, 1962), and Tolani Asuni in Western Nigeria, 1968, show that there is a condition that is afflicting urban Africans which is manifested in outbursts of rage, anger and violence and that it may explain some kinds of criminal homicide cases (Lambo, 1962). In fact one of the group of condemned criminal homicide offenders that Professor Asuni studied, 57 per cent were found to be mentally ill, and the diagnostic categories were schizophrenia, paranoid, depression, acute distress and depression and psychomotor epilepsy. Professor Asuni concludes

that, “There is a strong indication that many of those condemned and executed committed the offence when their mental state was disturbed”, and he adds that, “This means that the machinery for distinguishing the category of the sane and the mentally ill in relation to homicide is very faulty”. (Asuni, 1969).

Finally, we have the “reminder” as a category of their own; and even if these may not be found to be insane or to be abnormal; they can be said to have been abnormal at the time of the commission of the crime. Some of these are the ones that are hanged in most societies. But as we noted earlier, nearly all of these offenders, tend to have no record of previous violence (Mushanga, 1977), and when reprieved and released hardly ever recidivate in violent crimes; and as such they present no problem or difficulty in their eventual release.

In conclusion it would appear that in East and Central Africa, the problem of capital punishment has hardly been discussed publicly, and very few people appear to be concerned about wanton, senseless termination of human life in the name of justice. These age-old values need to be re-examined and re-defined. Africa has embraced Christianity and it has to uphold the Christian teachings to be convincing that it understands what it is doing. If we claim to be as civilised, as modern and equal with other people in other countries, we must demonstrate this with the abolition of the death penalty. Capital punishment for whatever crime a person may commit is a blatant violation of the fundamental human rights; it is also a violation of Divine Law and is against conscience and dignity. Its place is in the history of penology and should be allowed no room in modern penology. It constitutes a war by the state against the small individual.

CHAPTER 14

THE DEATH PENALTY IN AFRICA^{*}

The penalty of death or capital punishment, as it is commonly known among some scholars, is not a modern invention; it is as ancient as human society or as old as crime itself.

Although widely practised in many parts of the world, the death penalty is not a universal penal sanction as there exists some societies where this extreme penalty is not culturally prescribed for crime.

The death penalty is reported to have been one of the most commonly used methods of punishing wrongdoers for most crime in Europe and Asia. For example, we find that in England as late as the middle of the eighteenth century, they had over two hundred offences for which the offenders could be punished by death. In that country, a person could be put to death by hanging for a minor offence such as cutting down a tree, or for stealing property worth five shillings. Shop-lifting too was a capital crime and the value of the item so stolen was not the issue. The application of the death penalty was so wide that in 1820, the British House of Commons passed a bill to abolish it, but the House of Lords threw it out; the majority of those who voted against the abolition of this law includes all the judicial members, one archbishop and six bishops (Gardiner, 1956:29).

The death penalty was applied indiscriminately to all irrespective of age or sex of the offender. In 1908 it is reported that a boy and his sister who were aged seven and eleven years respectively were sentenced to death by hanging at Lynn, and in 1833 a boy of 9 years was condemned to death at the Old Bailey for stealing two penny worth of children's pants. The penalty was so widely applied that practically any kind of crime could be punished with death; for example in 1834 the House of Lords was still debating whether or not to abolish the death penalty for stealing a letter (Gardner, *ibid*).

Similar practices existed in other parts of Europe where written history existed; and even far back into pre-Christian era, we find

that in Rome, the sentence of death was not pronounced on citizens but was reserved for slaves and other non-citizen residents for a variety of crimes and offences.

In 509 B.C. there existed a law that prohibited magistrates from executing or flogging Roman citizens for crimes before receiving the approval of the Centuriate Assembly to which every citizen had a right of appeal (Sellin, 1967).

In Africa, the application of the death penalty, as William Clifford notes, varied in time and space (Clifford, 1970). Among the Yorubas of Nigeria the most frequently preferred method of putting to death persons condemned to die was beheading and this was also the case among the Edo speaking groups. Stoning to death was common among the Malik; in the ancient Kingdom of Benin the common practice was to bury offenders alive.

In pre-colonial era, the Kikuyu of Kenya provided the death penalty for a variety of crimes and it was commonly carried out by burning in a bee-hive for poisoning, witchcraft or for habitual stealing, but generally, Kenyatta reports that murder and other offences were settled by compensation (Kenyatta, 1950).

Among the Luo of Western Kenya, the murderer of a man was required to marry the wife of his victim and to procreate children on behalf of the deceased and also to bring-up his children. The idea of making the murderer to marry the wife of his victim was not to reward him with a gift of an extra wife, but to avoid the loss of two bread-earners thereby making two families fatherless. Among the Basoga of Eastern Uganda, for stealing bananas, a thief would have unripe bananas inserted into his anus till some of his internal organs ruptured whereby he would die of internal haemorrhage (Bohannon, 1960).

Among the Banyankore and other kindred groups of Western Uganda, Rwanda and North-Western Tanzania, death was provided for premeditated homicide; but compensation was the preferred alternative where this could be arranged before the angry relative of the victim could avenge the death of their relative (Roscoe, 1923).

Premarital pregnancy, carried a death penalty in some of the Bantus of Western Uganda. In some cases, the death penalty was inflicted by pouring salt in the girl's private part and allowing cows to take turns in licking her till she died of exhaustion and shock following serious bitings.

John Roscoe writes that in Buganda, an adulterer could be put to death but that an offender's life could sometimes be spared, and he would be fined two women if he was able to pay them, but he was in addition maimed, he lost a limb, or had an eye gouged out, and this was to render him less attractive to other women. In cases of accidental homicide the offender paid a fine. The fine for homicide was generally 20 cows, 20 goats, 20 barkcloths and 20 women (Roscoe, 1965; Mushanga, 1977).

In the Sudan, traditionally, the penalty for all forms of homicide was compensation, and present-day Sudanese law provides for blood compensation (Fluehr-Lobban, 1972).

In nearly all African societies, the use of the death penalty was considered as a last resort because the shedding of human blood was, in itself, considered to be ritually harmful not only to those who carry out the penalty but to the society itself and indeed to the soil on which the victim falls and bleeds.

Compensation was also preferred by some of the African communities not because it transferred goods, and in some cases, services from the family or clan of the offender to the clan or family of the victim, but because crime was defined not as an act of an individual but an act committed by an individual who belongs to a group. The loss of a person through homicide was a loss to the group which could be a family, clan or tribe and therefore the offender as a member of another group brought the crime to the group which was to pay the penalty and since a whole family or clan could not be put to death, compensation was the rational penalty.

In a situation where the perpetrator of an offence was deemed to have gone beyond the tolerance level of misconduct, it was his own kinsmen who were first to hunt him down and kill him thereby removing the possibility of retaliatory killings which, in

many cases involved the killing of those most useful to their families or clans. In cases where the killing was carried out by the relatives of the offender before the arrival of the relatives of the victim, a cleansing ritual had to be performed by the priests of both sides. Among the Banyankore of Western Uganda, this took the form of ritual killing of a white bull if the family or clan was able to afford one, but usually it was a white sheep; the animal was slaughtered at a junction of footpaths. A fire was made, the carcass was roasted and eaten by male members of the two clans after dipping their hands in the blood of the animal; beer brewed for this occasion was drunk and oaths were exchanged to the effect that no more blood would be shed in revenge and counter-revenge. To cement this ritual, a marriage was arranged in which a girl from the offending clan was married to the family of the victim thereby establishing a conjugal relationship which, if blessed with births of children, established a consanguinous relationship between the two clans as well.

The use of the death penalty in Africa during the colonial period was, in some cases, restricted while it was expanded in other cases. The colonialists did reduce the list of offences for which natives could be sentenced to death. For example, the putting to death of young girls who became pregnant before marriage was prohibited as was the killing of an offender in a retaliatory manner without having the offender in a court of law. The killing of witches and wizards, which was very widespread and still is in certain parts of Africa especially in West Africa particularly Nigeria, Niger, Sierra Leone, Liberia, Cameroon and in South Africa, was prohibited by law. This prohibition too applied to the killing of rainmakers and all those accused of night-dancing or of having an evil eye. In Buganda, the killing of a man taken in adultery or in *flagrante delicto* was prohibited and substituted with imprisonment or a fine (Roscoe, 1965:261-67). In some cases, the European colonialists introduced new crimes that were alien to the African penology such as treason and conspiracy. In some African states that were under the Portuguese, the death penalty was abolished altogether right from the time European rule was introduced. For example, the death penalty was abolished in Angola and Mozambique as early as 1870, that is three years after it had been abolished in Lisbon (Clifford, *ibid*). After a good 100 years

of abolition of the death penalty, the African leaders who replaced the Portuguese in Angola and Mozambique restored it, and on 10 July 1982, six Mozambicans and one South African were executed by firing squad after having been convicted on 17 June 1982 by a military court in Maputo of treason, armed rebellion and terrorism. Recently there have been moves in Mozambique to abolish the death penalty once again.

In the majority of the countries in Africa, the death penalty has been extended since independence to cover more criminal acts than it did under colonial rule. In many countries the death penalty has been extended to be awarded in cases of economic crimes such as hoarding, grand embezzlement, misuse of public funds, smuggling and robbery with menace, possession or trade in narcotics. In Nigeria, especially under recent military regimes, it has become a fashion to kill robbers by firing squads in public; it was very often on Saturday afternoons when city residents were invited to witness the public spectacle; public executions had been turned into public entertainment.

In Uganda, under the murderous regime of Idi Amin, killing people by firing squad was a frequent practice. Their crime, in the majority of cases was being a guerrilla or being anti-government. Under the bloody regime of Milton Obote, from 1980 to 1985 there was not a single case of death penalty carried out either in prison or outside; the would-be candidates were usually killed before they reached the gates of prisons. During the regime of Idi Amin, many people were executed by firing squad usually after brief trials by military tribunals sitting in secret. At these military courts, the defendants were not allowed to have legal representation nor were they ever allowed to call witnesses. Sentences of death were final and the condemned had no right of appeal nor were their sentences reviewed by the advisory committee or the Prerogative of Mercy of the President. During the second administration of Milton Obote, over 500,000 people were killed extrajudicially by military personnel, infamous National Security Agency, and by the Uganda People's Congress (the ruling party) youth wingers. The breakdown of law and order, the violation of human rights and total absence of the rule of law made life for the average Ugandan quite miserable.

The people were killed at the rate of about 182 each day from December 1980 to July 1985 when Obote was, for the second time, removed by his own army officers; others just “disappeared” and hundreds of thousands more were internally displaced from their homes especially in the central region of Luwero.

This sad state of affairs was brought to an end in January 1986 when the National Resistance Movement led by Yoweri Kaguta Museveni defeated the national army after five years of bush war. The new administration is committed to the observance of the rule of law, the respect of human rights and protection of human lives and property. Since its coming to power, the NRM has sanctioned the execution of people found guilty of murder and other offences by both military and civilian courts. One of these executions was carried out by firing squad in public in Soroti Town in April 1990. The offender was an army sergeant who raped a girl aged twelve after which he shot her to death. Earlier in the day, the same soldier had raped a housewife and also on the same day, he had attempted to murder a college lecturer. The execution was carried out twelve days after these incidents. There is no indication that the offender had legal representation nor is there evidence that he was examined by a psychiatrist to ascertain his mental state. Some condemned offenders are in prison waiting for either the verdict of the appeal court or the final decision of the head of state to exercise his prerogative of mercy or not. One of these is Mr. Chris Rwakasisi, the former Minister in Obote's second administration who was responsible for the notorious National Security Agency (NASA); he was sentenced to death for kidnapping with intent to murder after having been acquitted of murder charges.

Africa, unlike other parts of the world, is not debating whether or not to abolish the death penalty. In fact, as matters stand now, there is more use of the death penalty than there used to be under colonialism with the exception of the Republics of Angola and Mozambique. Nearly all the states, especially those south of the Sahara, are more and more resorting to the use of the death penalty in their attempts to control dissidence and anti-guerrilla activities. In the Republic of South Africa, the death penalty has increasingly been applied to the African people as the demand for the dismantlement

of apartheid has intensified, and since the Boer rule of apartheid started, the number of people sentenced to death runs into hundreds if not thousands.

In military ruled states of Africa, the death penalty has become very fashionable; and every attempted *coup d'etat* is followed by summary executions. In the Sudan, on 23 April 1990, 28 army officers found guilty of trying to overthrow the Sudanese government led by General Omar Hassan Ahmed Bashir were executed by firing squad a day after the attempted coup. Within a period of 24 hours, they were arrested, charged, found guilty, and the head of state, General Omar Bashir, approved the sentences and the executions were carried out (Amnesty International).

This procedure has been followed in a good number of countries in Africa where coups and attempted coups have almost become endemic. In some cases, the suspected offenders are extrajudicially executed. Amnesty International has been documenting these summary executions and extra-judicial executions. In Ethiopia executions have been carried out against people who resisted resettlement, and those who are suspected of having links with opposition groups or guerrilla organisations. In Liberia, when the government of the late Mr. Tolbert was overthrown by Samuel Doe, a lot of former leaders were summarily executed including Mr. Tolbert and most of the ministers in his cabinet and other senior officials.

Many more people have been sentenced to death by military courts, many more have been summarily extrajudicially executed in countries experiencing social and political strife. In Angola, despite the fact that there is, *de jure*, no death penalty, for a long time, people have been executed after brief trials by military tribunals or by People's Revolutionary Tribunals after having been accused of espionage, rebellion or complicity in armed rebellion and it is reported that in some cases the victims were forcibly made to make self-incriminating statements. In Uganda, under the regime of Idi Amin, the victims were fond of pleading guilty to charges of treason before they were executed by firing squad in public. These pleas of guilt came as a result of pretrial torture and false promise of non-

capital punishment such as imprisonment, but unfortunately this did not help in saving the lives of the victims.

In all Africa south of the Sahara, the death penalty has tended to be associated with the abuse of human rights and in countries where the rule of law is inoperative it has tended to be carried out in public by military firing squad; and where no show-trials are carried out, extra-judicial executions have been on the increase as have been the incidences of disappearing of people.

The current debate now taking place in many parts of the world notably in Europe, United States of America and Latin America and to some extent in Asia and Eastern Europe regarding the abolition of the death penalty has not begun to take place in Africa. There is hardly any literature regarding the topic either in popular magazines or in academic journals where these exist. Even such institutions as Lawyers Associations in Kenya, Uganda and Nigeria, hardly ever address this subject; and other social groups that normally tend to voice their concern for the plight of the people such as student bodies, churches and trade unions, have largely remained silent about this matter. Even when the method in which the death penalty is carried out is horrendous, it has not provoked revulsion strong enough to spark off a general debate of the whole question of death penalty.

The general opinion seems to be that of approval but this is to be expected in communities that are predominantly illiterate, poor and uneducated; and where the press and the media in general are not free to play the role of enlightening the masses. In most cases, the majority of the people will tend to hold the same views as those of their dictator-leaders who are always no more enlightened and are generally in favour of the death penalty.

Very few policies in Africa are influenced one way or other by public opinion and the death penalty is not one of these. In any case, the majority of the leaders in Africa are unelected, and those who are elected are in the one-party dictatorships where the leaders personally determine policies and these usually take no note of public opinion.

In the whole of Africa south of the Sahara, it has been Robert Mugabe, now President of Zimbabwe, who in 1985, promised to abolish the death penalty once the problem of dissidents is over; he promised this after ten people had been hanged in one week in August 1985. But since the merger of ZAPU of Joshua Nkomo, and his own ZANU, there has not been any talk about abolition.

In Mozambique, the government has been considering the inclusion of the prohibition of the death penalty in its recent constitutional changes, but this would be the re-establishment of the century-old Portuguese abolition policy that had been in practice since they established their rule in the country as well as in Angola.

Support for the death penalty is not only from the political leaders but also most of those who occupy judicial positions as judges, lawyers and magistrates. The police and prison personnel are especially in favour of the death penalty. Their advocacy of the death penalty stems from their strong belief in the deterrent value of the penalty. This belief also explains the strong advocacy of public executions that have been on the increase in most of Africa. It is believed that people learn to refrain from wrongdoing when they see what happens to those who have not heeded the admonition to refrain from committing crime.

Any suggestion of substitution of imprisonment for the death penalty is dismissed as Western bourgeois liberalism that is of no utility value in the African situation. Long prison term as alternative to death penalty is also disapproved because, the argument goes, the law-abiding citizen is made to provide for the upkeep of the law-breaker; and in societies where prison conditions may be better than most home conditions, the prisoners find themselves enjoying a higher standard of living than free men, and to many people this is unacceptable and unfair as it diverts resources needed for other human development activities.

What is at stake in Africa is the enlightenment of public opinion in regard to reverence for and sanctity of human life. The major topics that are being debated in the world in respect of human rights, fundamental freedoms and the rule of law have tended to lag behind in Africa and so is the question of the abolition of the death penalty.

CHAPTER 15

PREVENTION OF CRIME

Crime is an enormous problem for every country in Africa, just as it is for nearly all countries in the world; and as such, national leaders and their governments must be willing to commit not only state funds, but their personal efforts in order to reduce the volume of crime (Mushanga, 1976:200-231, 1992).

On the international level, suggestion is made for co-operative efforts by police departments to work together in combatting crimes of an international nature, such as drug trafficking, illegal trade, kidnapping, smuggling, slavery and exportation of human beings for the purpose of sexual exploitation in brothels and also in commercial farming.

Proper control of ports and borders could be of greater value in the reduction of international crimes.

There is also great need for the exchange of information on the part of the police and other law enforcement agencies. This is important in the way of disseminating knowledge in the field of law enforcement and in the maintenance of law and order.

The co-operative effort should also be extended in the field of training judges, lawyers, magistrates, police and probation personnel, so as to give them a uniform perspective in the field of crime control. It is in this respect that the African Institute for the Prevention of Crime and the Treatment of Offenders (UNAFRI), now located in Kampala, Uganda, could be of immense value in the co-ordination of training programmes for different categories of officers at various levels of operation, right from High Court judges to clerical officers within the judiciary system or in other service departments.

The role of well-trained law enforcement personnel cannot be overstated. The way the police, magistrates and judges handle the members of the public is both positively and negatively affected by the way the officials are trained. Training also is crucial not only in the collection of criminological data, but also in the analyses and

interpretation of these data, and in the implementation of crime prevention policies.

Up until now, many countries in Africa have had to put up with inadequately trained personnel at all levels of the criminal justice system, which leads to the unsystematic collection of data and delays in the processing of court cases, whereby injustice is done to innocent persons resulting in the abuse of human rights.

The most important part of the prevention of crime falls within the domain of national governments. By agreeing to set up the UN Crime Prevention Institute in Kampala, the national leaders in Africa are now convinced that crime is a serious social, economic and political problem which calls for urgent attention.

SOCIAL PROBLEM

A social phenomenon like crime, becomes a social problem when a significant part of the society and especially if the opinion leaders believe that their society is adversely affected; and feel that something must be done to bring the situation under control. When an individual is faced with a problem, that is private trouble (Eitzen, 1983), for example, unemployment, or when one's water well dries up; but when a large number of people continue to be unemployed for any length of time, then unemployment is no longer an individual person's problem, it is a social problem. And when many water wells dry up in any given part of a region or country, that becomes a social problem. A problem may be defined as social when its impact affects a sizeable part of a society and when its solution is deemed to be beyond the abilities of a single individual.

It is in this sense that Museveni defines Africa's problems. In his book *What is Africa's Problem*, President Museveni states that the biggest problem the African people are facing today is backwardness; and goes on to define backwardness as incapacity to harness nature for our own benefit; that the means to increase our capacity to tame and harness nature for our own benefit is through the acquisition of science, technology and managerial capacity; and these are the forces that Museveni calls productive ones. When these three resources are undeveloped, the society is backward (Museveni, 1992:173).

Sometimes a single individual may be the source of the social problem as when a dictator terrorises a whole country by killing people, by sending others to prison or into exile, and by ruining national institutions as did Idi Amin and Milton Obote in Uganda, or Bedel Bokassa in Central African Republic. The solution to such a social problem lies in the removal of the dictator and by replacing him with a more enlightened leader.

Crime being a unique social problem has one aspect which it shares with other social problems, and that is no matter how good and effective preventive strategies may be, crime cannot be eradicated from society. That is why crime must not be considered along some other social problems such as disease. Not long ago, yaws and smallpox used to be serious social problems in many parts of Africa, but today, yaws has been controlled, and smallpox has been eradicated, the last case was reported by WHO in Ethiopia over a decade ago. Some other common social problems that appear to defy any effort at their eradication include urban congestion, prostitution, alcoholism, racism and poverty. The majority of social problems, that is those that are due to natural causes such as floods, earthquakes, tornados and certain diseases are due to human action or inaction. Some social problems arise out of the way political power is distributed; or how the wealth of a nation is shared or how the legal system functions.

The following is a short list of the factors that sociologists consider to be responsible or closely related to the cause of crime in poor countries of Africa. It is important to take note that when we speak of “cause” we are not speaking of the cause and effect in classical sense of saying that A is the cause of B meaning that if A was never there, B would not be there either. We are talking of “cause” as a necessary element and not a sufficient element in the cause of crime. Sociologically speaking, there cannot be a single cause of crime, there are several if not many factors that lead to normal human beings to engage in deviant and criminal acts.

1. POVERTY

One of the major contributing factors to the cause of crime in Africa is poverty. Poverty is a very confusing concept and quite relative. It also varies from one society to another as well as from one nation or epoch to another. The poor in America own T.V. and drive cars. They are also well dressed. The poor in Africa are living in substandard houses made of mud and wattle and thatched with grass, they eat food which is deficient in major nutrients of protein and vitamins, they wear second-hand clothing imported from Europe and America; they are illiterate, they are undernourished, and unemployed. In America, people who spend at least a third of their income on buying food are defined as poor. According to this definition, almost 25 million people in America, that is the population of Kenya, are classified as poor (Hunt, 1966:98).

In Africa, when we talk of the poor, we are talking about those who are living in slums that surround our major cities such as Nairobi, Kampala, Kinshasa, Lagos and so on; we also talk of rural people who live on what they grow with no definite and regular income, who are commonly called the peasants.

People are called poor because they earn little or nothing in the course of a year. They cannot afford to provide themselves and their families with the basic necessities in life apart from what will keep them alive. Poverty in Africa is alarming; consider that the per capita income of Kenya is USD 360, in Uganda, the per capita is USD 300 while in Tanzania it is 235 (Information Please Almanac, 1992), that means that the per capita income of an East African is USD 298 or 81 US cents per day; and it is from that meagre earning that the East African pays his taxes, pays fees for his children and supports his family. This state of affairs becomes more clearer when compared with developed countries, say Canada. In Canada, the per capita is USD 19,600 per annum, that is USD 54 per day; which is equivalent to the daily earnings of 67 people in East Africa or what 64 East Africans earn in a year is earned by one Canadian in a year; and it must be remembered that a Canadian who earns USD 19,600 in a year is at the bottom of the earning scale, he is the kind of person

who spends a third of his earnings to buy food. Eitzen and Zinn have stated that:

“The poor are poor ... because they have been and continue to be dominated and exploited by powerful nations that have extracted their wealth and labour” (Eitzen and Zinn, 1994:56).

A United Nations Development Programme (UNDP) report for 1992, *Human Development Report* 1992 gives a more vivid picture of the African predicament. Instead of using the GNP and per capita indicators, the report tried to answer the question, ‘how are the people faring?’ instead of ‘how much is the nation producing?’ The major indices of how are the people doing are: longevity, or life expectancy at birth; literacy, or the ability to write and read at least in the local language; and income, as we showed above. On these three indices, African countries fared very badly, and they continue to get worse (UNDP: Human Development Report, 1992).

The report showed that the country with the highest Human Development Index (HDI) in Africa was Seychelles, and it ranked 58th in a ranking headed by Canada as the first with an HDI value of 0.927 in which Guinea became 160 (the last) with a score of 0.352. In East Africa, Kenya was number 114 in the world with a score of 0.366, Tanzania was number 126 with a score of 0.268 while Uganda was number 133 with a score of 0.192. Eighteen of the poorest countries on the HDI, only two, Bhutan and Afghanistan, were not African countries; all these scored 0.166 or less on a scale where any score below 0.500 is classified as low; and only Seychelles, South Africa and Libya, out of all 50 states in Africa, scored above the level, and ranked 58, 70 and 74 respectively. The most alarming, is the literacy rate, in East Africa the rates were: Tanzania with a rate of 79 per cent, Kenya 59 and Uganda with a rate of 57; but Chad had 17, Burkina Faso 13, Niger 13 and Sudan 11 per cent. The UNDP report also showed that there are states in Africa whose GNP and per capita income are moderately higher than their HDI which may point to some misallocation of resources; for example, as when resources are spent on acquisition of military hardware instead of developing and promoting human potential. The UNDP HDI report has made a very crucial linkage between human development

and political freedom; pointing out that “People who are politically free can take part in planning and decision-making. And they can ensure that society is organised through consensus and consultation rather than dictated by an autocratic elite” (Griffiths, 1994:32). This is what is retarding economic progress and human development in Africa. The democratisation of political and social organisation is a fundamental element in the process of modernisation and human progress. Political liberalisation must be listed as one of the factors in the fight against poverty in Africa. The poor are constantly lacking financial resources to afford decent housing, clothing, food, education of their children, medical care and pass on their poverty to their descendants. These are the people who are prone to committing property crimes like stealing of foodstuffs, stealing old clothes, shoes, bicycles, and all sorts of artefacts. The slum dwellers are especially vulnerable because of their close contact with the more affluent members of the same society who live close to the slums. Thus the Mathare Valley residents in Nairobi frequently steal from Muthaiga, as do dwellers of Kivulu steal from the residents of Makerere in Kampala, who live just a few hundred yards away.

Government priority in its effort to reduce crime among the poor would include the provision of decent housing, running water, education for the children, literacy for the adults, employment for the physically fit, training and skill development among the school-drop outs and maintenance of law and order in slum areas and keeping the neighbourhoods clean and free of rubbish and rodents (UNDP Report, p.26,) but the greatest effort should aim at cleaning the cities of slums.

Along the programmes to fight poverty and its offshoots of ignorance, disease, backwardness, racism and tribalism, intolerance and inhumanity of man by man, we must not forget to put in place similar strategies to fight and ward off hunger.

Hunger has been defined as a persistent, chronic, relentless condition that keeps people from working productively and thinking clearly. It decreases human resistance to disease; it is intensely painful; prolonged hunger can permanently damage not only the body, but also the mind and if not halted, it kills.

Many people in Africa are not aware that hunger is one of the serious social problems of many communities in a good number of countries in Africa. Very few countries have been able to stem off hunger in the last couple of years, but otherwise nearly all African countries south of the Sahara have had hunger in varying degrees of intensity. Famine has been reported in Ethiopia, Sudan and Somalia partly due to the effects of drought, but also to civil wars in those countries. In Southern Africa, a similar situation does prevail, drought and war in Angola and Mozambique have caused famine in the two countries. Elsewhere shortage of food has been reported in Kenya, in north-eastern Uganda, and in other parts of the continent. More recently hunger has hit Rwanda and Burundi as a result of the inter-racial wars that have claimed the lives of over half of a million people, and the wars are not over as yet.

The personal and social experience of hunger can be very devastating as one writer has shown that:

“For hunger is a curious thing: at first it is with you all the time, waking and sleeping and in your dreams, and your belly cries out insistently, and there is a gnawing and a pain as if your very vitals were being devoured, and you must stop it at any cost, and you buy a moment’s respite even while you know and fear the sequel. Then the pain is no longer sharp but dull, and this too is with you always, so that you think of food many times a day and each time a terrible sickness assails you, and because you know that you try to avoid the thought, but you cannot, it is with you. Then that too is gone, all pain, all desire, only a great emptiness is left, like the sky, like a well in drought, and it is now that the strength drains from your limbs, and you try to rise and find you cannot, or to swallow water and your throat is powerless, and both the swallow and the effort of retaining the liquid tax you to the uttermost” (Kamala MarKandaya, in *Ending Hunger*, 1985:6).

Facts relating to hunger in the world are extremely depressing. It is reported that:

1. More than one billion people in the world are chronically hungry.
2. Every year, 13 to 18 million people die as a result of hunger and starvation.

3. Every 24 years, 35,000 people die as a result of hunger and starvation – 24 every minute, 18 of whom are children.
4. No other disaster compares to the devastation of hunger.
5. The worst earthquake in modern times which hit China in 1976 killed 242,000 people, but hunger kills that many in seven days (Ending Hunger, *ibid*).

And most of these casualties of hunger and starvation are from the poor regions of the world especially in Africa which also happens to be the region most affected by drought, by dictatorships, by AIDS, and by violence.

It is a curious thing that even countries with sufficient rainfalls and adequate rivers for irrigation with a surplus of unemployed manpower should be hit by hunger. That must be explained in terms of poor leadership. People must not just be advised to grow food, but must be assisted to do so; they need to be educated about the value and importance of growing food, especially the kind of food that can be preserved over a period of time such as millet, maize, peas, beans, groundnuts and so on. The common tendency is for agricultural extension workers to tell people to grow more cotton, more coffee and tobacco for export as the case is in Uganda while the growing of basic foods is not given priority. The export crops are grown, exported, the growers are underpaid; the money the state takes is misused or is embezzled, and when the hunger hits, government officials rush to the World Food Program or Oxfam, or World Lutheran Federation for hand-outs. Government officials must get out of those air-conditioned offices and go into the rural areas to advise, supervise and be involved in food production, as the only way to food security.

In an effort to alleviate poverty and hunger, war must be waged against foreign exploitation of raw materials. It is currently estimated that goods worth USD 25–30 million are exported from Africa to America and Europe everyday. These exports include not only the minerals such as diamond, gold, tin, copper, iron, zinc, emeralds but also foodstuffs such as meat, eggs, groundnuts, overcadoes, pineapples and other goods such as hides and skins, live birds, reptiles. There are also reports of women and children being exported to Mediterranean

countries for purposes of enslavement and prostitution. Exportation of goods can lead to very serious consequences. The Republic of Botswana exports meat to EEC countries. When EEC receives fresh meat from Botswana, the meat which had been in deep freezers for months is removed and sent to West Africa where it is sold at throw-away prices. This in turn undercuts cattle traders in Mali, Niger and Burkina Faso; and while Botswana exports fresh meat to EEC, young children in Botswana suffer from malnutrition which is mainly due to lack of protein (Mushanga; 1995). And to make sure that the export of meat from that country is not interfered with, European activists are very busy establishing family planning units in Botswana to keep the population down in a country two and a half the size of Uganda, but with a population of one million, which is equivalent to the population of Kampala.

2. EDUCATION

The second most important factor that needs serious attention is education; and by that I mean more than the ability to read, write and speak good English, French or Portuguese. Good education should prepare the youth to be useful and self-reliant members of society and not white-collar job seekers. Education in the classical sense must be combined with practical subjects in such a way that the young adults can use not only their heads but their hands too. There is no point for a young girl or boy to memorise the passages from the plays of William Shakespeare when she or he cannot tell which month her or his mother plants beans. It is interesting to note that while over 90 per cent of Ugandans are engaged in traditional agriculture, agriculture is not offered in primary or even in secondary schools, and where it is, it is not given the attention it deserves; because the majority of the school leavers are destined to go back and live on the land as their forefathers did generations before them. Even at the university level, education is not geared towards self-reliance, for example, Makerere University offers courses in religion, philosophy, and sociology, music and dance which are purely academic with no practical aspect to them. Where would a graduate with a degree in religion get a job if he is not able to be a pastor or some kind of religious worker? Undergraduates should be

encouraged to combine their academic interests with their practical requirements. Makerere offers degree courses in religion and dance, but not in rural sociology, land economics, or food technology. Graduates in law, medicine and engineering get embarrassed when asked what balance of payment means and it takes them time to figure out what devaluation of currency means. The governments must endeavour to offer free but compulsory education at least for ten years after all education is a right and not a privilege.

3. EMPLOYMENT

One other priority is to create employment for both rural and urban dwellers. If there is any ministry charged with planning, that ministry should spend three quarters of its time making strategies for employment. The routine business of the officials of the ministries of planning in many African countries spend most of their times working on the budget, how to raise funds, and also how to spend the same; very little time is spent on planning how to put people to work, to produce, to feed themselves, to have useful education, to acquire useful skills and so on.

It is also crucial to try and reduce income disparities among the wage and salary earners; it is immoral for an officer to earn ten times more than his secretary when they both have families to keep, children to educate, and at the same time go to the same market to buy the same food; and go to clinics for similar treatment where they are required to pay the same amounts.

The low income groups also need decent housing, decent medical care, good education for their children and they must be taken into account when wages and salaries and other fringe benefits are being reviewed.

4. SIZE OF CITIES

Deliberate effort must be made to keep cities small. The experience gained from overseas indicates overwhelmingly that crime rate rises with the size of the city; the smaller the size of the population of the city the less the crime rate. Limiting the size of urban areas can be achieved from rational planning at the national level. Industries

should not be concentrated in one city, nor should educational, health, military and large business facilities. When such institutions are located at different places, this helps to reduce the number of people going to work and to seek employment in these institutions. National planners should always bear this in mind that employment facilities should be scattered throughout the country as much as possible; this may not be easily acceptable to the business people, but national priorities must be allowed to take precedence over individual preferences.

5. CORRUPTION

The fifth on our priority list is the need to fight corruption at all levels not only in government but also in all aspects of public life. Corruption here refers to a situation in which a public official uses his position of power and influence for personal and private benefit; preferment and prestige. Corruption therefore involves a violation of public duty or a departure by a public official from established standards in exchange or anticipation of material or other personal gains. Adedokun Adeyemi has pointed out the need to fight corruption not only in the public sector but also in the private sector as well arguing that "... if we attempt to clean up the public sector ... without correspondingly doing the same for the private sector, the cankerworm will continuously be contaminating the public sector, with the attendant continuation of corrupt habits in as much as it is impossible to insulate the public sector from the public sector. Hence, the two must be cleansed together..." (Adeyemi, in Mushanga, 1992:129-131).

Corruption, it has been authoritatively stated, is one of the most pernicious social problems common in nearly all developing and developed countries. In many countries large percentages of national product are appropriated by heads of state, and banked in overseas banks notably in Switzerland, while ministers, junior officials, parastatals chiefs and clerks share in turn while the citizens go for months without pay and roads, water supplies, sewages remain unrepaired. Corruption is competing with poverty for the second place in seriousness after AIDS in many third world countries. There is corruption in nearly all countries, the difference being

that in rich countries, the thief president or minister may steal ten million dollars, but there will always be no apparent shortage in the national treasury, but in poor African countries, when that amount is stolen, several hospitals will be closed, rural farmers will not be paid for their crops, students on scholarships will be discontinued, taxes will be doubled, unpaid policemen will demand bribe from suspected offenders, traffic officials will charge drivers, priests will pilfer collections from their congregations, magistrates will judge cases in favour of one who pays more, merit is derided, unqualified people get appointed and promoted to positions of responsibility, inefficiency spreads, social services decline, nothing gets done without payment, delays alternate with prompt action according to market prices, human life and dignity are ignored, money becomes the guiding principle in human relations.

Corruption must be recognised as an intolerable social problem which African leaders must face with determination. Laws can be enacted to fight corruption. Corrupt leaders must be exposed, tried, made to pay back and to be punished for their corruption. The law and the political system must work hand in hand to make it absolutely clear to all and sundry that corruption does not pay. Corrupt officials must not only lose their public offices, but must have their ill-gotten wealth taken away, their vehicles, houses, and furniture confiscated by law.

In a good number of countries there are hardly any senior official in prison for corruption. This means that governments talk about fighting corruption but do not mean it.

Laws against corruption and misuse of power need to be made and also to be enforced in order to reduce the cankerworm of corruption.

Corruption in a wider sense is a problem that covers a wide range of activities that are deemed to be unofficial, unlawful or even criminal. The use of government vehicles is one such common unlawful activity which if researched into could reveal an enormous amount of money that is misspent. In Kampala, Nairobi and other capitals, vehicles bearing government number plates can be seen running up and down all the time. The majority of these are not

on government business. Government vehicles are used to take the children of the officials to and from schools; drivers are sent to collect relatives of the officials, or to take the wives for shopping or to the market; vehicles take officials to their rural homes on weekends; others take mourners to villages; others go out of town to collect food from officers' farms, and all this costs money and it is unlawful. Any reduction in the misuse of government vehicles, telephones, stationery, postage, and even time would make a saving.

6. EFFICIENT LAW-ENFORCEMENT PERSONNEL

The sixth item in crime prevention is the recruitment, training and deployment of efficient, capable and honest crime investigators, police, prosecutors, magistrates, judges, social and probation workers. It has been said that when the probability of detection, arrest, prosecution is high, the would-be offenders tend to refrain from committing offences; but that when people believe that they can commit crime and get away with it, then they go ahead and commit crimes. So prompt detection, prosecution and disposal of the case are crucial factors in crime prevention.

Today, in Uganda, a lot of cases are dismissed from courts because of lack of evidence, because of delay, and also because the files get lost. In one case which involved the writer, when the case was called, the Chief Magistrate informed the court that the file was missing whereupon I asked him whether it was a common occurrence for files to miss. The Chief Magistrate said that it was not common but nevertheless, files occasionally get lost. The next time the Chief Magistrate told the court that the file was not missing but had been misplaced by the filing clerk. The truth was that the defendant had paid a large sum of money and the magistrate was trying to avoid giving judgement against the defendant. When I went for judgement the magistrate had been interdicted; there was a new one.

7. REDUCTION OF PRISON POPULATION

The seventh item is the reduction of people being sent to prison. Imprisonment must be considered as a last alternative. Criminologists have repeatedly warned that prisons do not help to reduce crime in

society, that in fact prisons make criminals more hardened. Although imprisonment was an improvement on previous penalties such as mutilation, death penalty (which still exists for certain crimes in Africa), flogging, torture and so on, it nevertheless serves a very limited purpose. Africans simply adopted prisons from European colonialists without asking what function prisons serve in society. The obvious function is that criminals cannot commit more crime while in prison. Very often we hear that the offenders are sent to prison to be reformed, or to be re-educated in good behaviour; so that at the end of their stay, they rejoin society better men and women, and good law-abiding citizens. But that is not the case; Clinard testified before a US House of Representatives Committee that:

Prisons are largely failures; that recidivism runs between 60% and 80%, that in prison, men are trained in more sophisticated methods of committing more serious crimes at state expense; that homosexuality is rampant in prison, that imprisonment degrades inmates, that initiative is crushed, that men became embittered and filled with hatred of society, and that the worst of all, prisoners get labelled of being exconvicts which interferes with jobs, marriage and individual self-image (Quoted by Mushanga, 1988).

Elgin Hunt has listed nine major faults with the prison as an institution and these are (1) inefficiency of administration; (2) the employment of incompetent personnel; (3) inflexible routine; (4) lack of useful employment; (5) abominable and unsanitary living conditions; (6) poor and inadequate food; (7) mistreatment; (8) overcrowding; and (9) “post-graduate” instruction in vice and crime at the expense of the tax payers maintaining these institutions. That those dangerous and demoralising conditions call for continuing efforts towards prison reform (Hunt, 1967:348).

ALTERNATIVE TO TRADITIONAL PENAL SANCTIONS

Alternative to traditional punitive practices of capital punishment, mayhem, corporal punishment, banishment and incarceration is what is called restorative justice. Restorative justice may be defined as a legally acceptable and socially approved method of handling criminals whereby the offender is required to repair or restore to

normal state the society or the individual he has occasioned harm instead of having to face one or several of the traditional retributive penal sanctions. The restorative justice makes it possible for the offender to remain in his community, to maintain his family, keep his job as he makes good the damage he caused to the community, the family or the individual. Restorative justice not only saves the individual offender from the inhuman consequences of any of the traditional sanctions, but also saves the tax payer from supporting the social deviant in case of imprisonment. The following are some of the major alternatives that are now being offered and which should be increased to completely replace the traditional penalties:

(1) FINE: This should be the preferred alternative

The first and most useful alternative to imprisonment is fine. Fine is the best penalty; and many countries have abandoned imprisonment and resorted to fines. In England, for example, in 1984, 42% of all crime offenders (excluding motoring offenders) were fined, the same percentage of offenders were dealt with in ways other than custody, and only 16 per cent were sent to prison (The New Encyclopedia Britannica, 1992:814-815). Fine is a relatively simple penalty to administer and has no side effects such as stigma or loss of job, or broken families, or retraining in criminality. Two problems may be encountered in the administration of fines; one is that there are people who are too poor to afford to pay a fine. This should be left to the discretion of the magistrate or judge; he could decide to impose a fine to be paid in instalments no matter for how long, but at least the offender should be offered the change of avoiding prison life. Secondly, there are affluent offenders who would not mind paying a heavy fine, who would therefore continue to commit crime because they know they will pay a fine. This again is a matter for the sentencing officials to determine; the magistrate could impose a conditional fine, that is, the offender is fined but also warned that any other subsequent offence will be punished with imprisonment without an option of a fine, or both; or the amount of a fine could be raised considerably for the offender to be concerned.

(2) RESTITUTION: A rational alternative

The second alternative to prison is restitution which is also known as compensation. In this alternative, the offender is required to make compensation to the victim of his criminality; that victim could be the state, an individual or a private company. In some cases the offender may not be able to pay, but he should be given the chance. In England and Canada, the state pays compensation to victims of violence even when the offender is not apprehended. In cases of criminal homicide, the offender should pay compensation to the next of kin in lieu or in addition to being sent to prison. Hanging the offender penalises his family and does nothing for the family of the victim.

(3) PROBATION AND SUSPENDED SENTENCE: Should be encouraged

The third alternative is probation and suspended sentence. Here the offender is sentenced to a period of time during which he must abide by the terms of the sentence as determined by the court. In many cases the court order requires that the convict remains at large on condition that he does not engage in further acts of crime, and that if he did, the probation order would be revoked, whereby he would be sent to prison. The offender goes on probation fully aware that if he fails to observe the conditionalities of his release, he will go to prison; the period of imprisonment having been fixed before he is released to probation.

(4) REPARATION: Should be tried

The fourth alternative is reparation whereby the offender makes good the damage he has done through his criminal behaviour; not by payment of money but by providing services to the victim of his crime directly or indirectly through the community of which the victim is a member. The offender is ordered by a court order to perform community service work for a number of hours without pay depending on the determination of the court. The community service could last for months or a year as the court order states.

The penalty of reparation requires that the offender willingly accepts the court order, he should not be forced to do so. In the African context, the offender could be required to cut grass at the

local school compound, or at the local clinic, or the chiefs house, or to collect refuse at the local market; or to dig the local road or clear the water well of grass or even to assist old people to harvest their crops; but usually under supervision of a court-designated official.

(5) INCAPACITATION: Very effective in traffic offences

There is the penalty of incapacitation of the offender, especially in traffic offences. The offender is deprived of his licence for a period of time depending on the nature of the offence he committed. The licence could be suspended from a few months to a year or several years. Secondly, the vehicle itself could be impounded for a period of time from a few weeks to several months, again, depending on the nature of the offence it was used to commit.

A delinquent doctor or lawyer could have his licence to practice his profession suspended or cancelled depending on the gravity of his misdeeds; a teacher could be suspended or discharged as would a thieving clerk or a corrupt magistrate or a bribe-prone policeman.

(6) THE ENCOUNTER BETWEEN OFFENDER AND HIS VICTIM

Some criminologists have been advocating a confrontation between the offender and his victim in front of an impartial observer or arbitrator especially in crimes of violence and theft. The offender, especially if there is sufficient evidence to convict him is made to recount his conduct and to explain how he went about to commit the crime. This is followed by some questions put to him by his victim and the impartial arbitration after which some agreement is reached whereby the offender pledges not to repeat his crime. In the state of Oyo in Nigeria, some cases are settled by having the offender and his victim debating the matter on T.V. as the public watches. This has been found to have an appreciable impact on people for fear of this confrontation.

(7) IMPROVE PRISON CONDITIONS: Improvement should be limited to few cases

It is obvious that prison as an institution is going to remain a major method of handling offenders, and as such it needs to be improved. The conditions, food, toilets, clothing, health care and all need to be

improved; and especially the attitudes of the officials who tend to treat offenders inhumanly.

The lawmakers and prison officials must be reminded that people are sent to prison as punishment and not to be punished while in prison. It is the act of imprisonment that constitutes punishment. Offenders must not be kept in prison for long periods of time unless it can be proven that their release would constitute a danger to members of society. Short, shock sentences are recommended as opposed to years of imprisonment especially for petty crimes involving stealing of old used articles. Sentencing officials must bear in mind the long-term consequences of prolonged imprisonment on the family of the prisoner.

A man who stays a long time in prison, say five or more years, may come out to find that his children had been discontinued from school, his wife may have left him and his entire family broken up and this may not be in the best national interest bearing in mind that thousands of men (and women) may be involved. In this way, long term imprisonment could be contributing to social disorganisation and crime.

The prisons too must be kept small; no prison should hold more than 200 inmates; and prisoners must not be sent far away from their homes. They should be near so that friends and relatives can visit them. They should be allowed to have money in case they want to use telephones. They should be allowed to have weekends off, say once in every six months, to be able to pay visit to their homes to be with their spouses, children and friends. Prisons were never meant to break families as they now do.

(8) THE FAMILY, THE SCHOOL AND COMMUNITY

Finally, in our desire to prevent crime, we must not forget the family, the school and the neighbourhood; these three are the major institutions in determining the behaviour of the young persons. A study by Sheldon and Eleanor Glueck in Boston showed that there are five factors that relate to the child's development towards being a non-delinquent. These were that a boy who was under constant supervision of his mother; who was also disciplined by his father, but

who also received affection from his mother and his father and lived in a cohesive family stood better chances of being non-delinquent.

This study showed the importance of the family as a major sociological institution for proper socialisation of children in normative behaviour patterns. Children who have one parent, and worse still those with no parents are at a greater risk of being delinquents. Equally at risk are the children of drug addicts, drunkards, prostitutes, battling parents and continuously absent fathers. Whatever undermines the role of the family must be avoided and whatever enhances the unity and harmony of the family must be encouraged because it is in the family that a child is introduced to the whole range of social norms. The differential association theory as put forward by Edwin Sutherland stresses that “deviant behaviour was a consequence of normative conflict. Conflict among norms is related to deviance through differential social organisation, which consists of neighbourhood structures, peer group relationships, and family organisation” (Sutherland and Cressey, 1968). The main theme in Sutherland’s theory is that criminal behaviour is learned; it is not inherited, nor is it due to low intelligence, or feeble mindedness. The learning takes place in intimate groups; that a person becomes a deviant or a criminal because of an excess of definitions favourable to violation of norms over definitions that are unfavourable to violation of norms.

The second group that has an immediate impact on the young mind is the peer group; that is the school from where the child picks his playmates who will influence his outward behaviour as well as his inner motivation towards one way or other. The impact of the peer group is to be contrasted with that of the family, if the two compliment each other one way or other, the child will follow accordingly; the Banyankore say that “ah’embuzi mbi eri totsibikaho yaawe” meaning, where there is a bad goat, be carefull not to tether yours.

The neighbourhood in this respect refers to the people other than the family members, or the peer group. These are the people who live in close proximity to the child’s home. The people he meets most of the time, whose behaviour he observes all the time,

and about whom he hears a lot, both good and bad, and possibly whose children form his own peer group. The child's behaviour will be shaped one way or other depending on the nature of social interaction between the three social variables of the family, the peer group and the neighbourhood.

(9) ABOLITION OF DEATH PENALTY

From time immemorial, scholars, philosophers and others have debated the question of the death penalty, and will continue to do so as long as the penalty continues to be awarded to criminals.

The arguments for the death penalty are:

1. That the death penalty has always been used as a penalty for wrongdoers; and that it is inherent in human nature to punish wicked people (Siegel, 1992:541).
2. That the death penalty was never opposed by moral philosophers such as Thomas Moore, John Locke, Immanuel Kant and that even the makers of the American Constitution never condemned the practice.
3. That the death penalty is a unique deterrent; that if it were abolished, dangerous elements, who now fear the scaffold, would be unleashed and society would be in greater danger (Mushanga, 1977).
4. That those who are sentenced to death are those who are beyond hope of rehabilitation and that to keep them in prison at the tax payer's expense is wastage.
5. That it is cost-effective, meaning that it is cheaper than imprisonment.
6. That it is more humane to hang a person than to keep him in prison for life.
7. That if the death penalty was to be abolished, the lives of law enforcement personnel such as police and prison officers would be put in danger. And that for self-defence, the law enforcement officials would be prompted to use firearms against felons and this would create a vicious circle.
8. That without the death penalty, society would return to lynching of even petty offenders.

9. Others agree that the death penalty was sanctioned by God in Genesis 9:6 which states:

Whoever sheds man's blood, by man shall his blood be shed: for in the image of God made he man (Mushanga, 1988:160).

And in Exodus 21:23 it states that:

But if the woman herself is injured, the punishment shall be life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, bruise for bruise.

The advocates of the abolition of the death penalty argue that:

1. The death penalty is not a punishment because the victim does not live to learn to refrain from wrongdoing.
2. The death penalty has no deterrent value to justify its retention (Sellin, 1967).
3. The use of the death penalty is illogical, since true murderers are usually few, less than one per cent of all homicide cases, and moreover homicide offenders, and especially in murder are the least to recidivate.
4. The death penalty is a primitive practice, and contrary to the high ideals of civilised behaviour; it is cruel, inhuman and unkind and degrading to the relatives of the victim and even to those who carry it out in the name of justice.
5. It contradicts God's commandment of "Thou Shalt not Kill".
6. Society cannot rid itself of murderers by being a murderer itself.
7. The death penalty brings misery and suffering to the family and friends of the victim.
8. The death penalty is a gross violation of human rights.
9. The death penalty is retrogressive and obstructs social and moral progress.
10. The death penalty is very often imposed on innocent persons when a miscarriage of justice occurs. That it has been found to be awarded more frequently to minority groups.

A study in U.S.A. by Radelet and Bedan showed that 350 people were wrongfully awarded the death penalty this century; of these,

23 were executed, 128 served six or more years in prison; 39 served 16 or more years in prison; eight died while in prison (Siegel, *ibid*).

In a different study, Lawrence Greenfield found that between 1930 and 1967, there were 3,859 alleged criminals who were executed, and that of these 53.5% were blacks (Greenfield, 1989) even though Black people constitute no more than 14% of the American people. The death penalty, together with life and long prison sentences, are some of the designs to limit black population increase.

A survey of 165 countries of the world by Dennis Wiechman, Jerry Kendall, and Ronald Bae found that death penalty is used in more than three quarters of the nations of the world. That two countries, South Africa and Mauritius, have the highest executions of 20 persons each year and that the 22 nations that did execute criminals averaged about 4.2 persons per year (Siegel, 1992:542).

From the available evidence, based on empirical studies from a number of countries, we find no rational justification in the retention of the death penalty. It has been conclusively and authoritatively shown not to be a deterrent; it should therefore be abolished.

In a very remarkable response to the prospect of a death penalty being imposed on a murderer of a young girl in Los Angeles in November 1960, the mother of the victim said:

“I cannot believe that a capital punishment is a solution to abolish murder by murdering, an endless chain of murdering... If it is to be “an eye for an eye and tooth for a tooth”, this will soon be a blind and toothless world” (Koestler and Rolph, 1961:25).

CHAPTER 16

SLAVERY AND COLONIAL EXPLOITATION OF AFRICA AS CRIMES AGAINST HUMANITY: THE CASE FOR REPARATION

Tom Price was a Negro, married and father of two children. While he acted as porter in the town hotel his wife did washing from a number of white families. Price had little education and was in no way extraordinary, except that he was rather more consistent in attention to his job than is usually the case. His wife, a rather attractive Negress, in August of that year was fired by one of her male employers because she insisted on remaining faithful to her legal spouse. Price, in a moment of angry bravado, threatened the white man. On the second night after the occurrence, Price was awakened and dragged from his bed by three hooded figures. Before the small house, which was on the outskirts of the town, waited a group of 15 or 20 more, all similarly attired, and each provided with a horse. The Negro, was tied to the end of a rope and then dragged behind the cavalcade to the centre of town. Here, he was wired to an upright post and faggots soaked in kerosene were piled about his legs. To the crowd that was gathering the leader of the hooded band declared that Price was to be 'executed for attacking a girl.' The mob growled approval and shouted advice to the captors. The first step in the execution was the whipping which raised crimson-gorged weals on the Negro's naked body. Then, a match was set to the straw and sticks — but not too many of these — the flame was not intended to kill. As the flames reached his flesh the Negro writhed and screeched in agony, but only now did the real torture commence. So tightly was Price wired to the post that his tense body could not shrink when one of the white men advanced with a brace and bit into the muscles of the groin cut the biting tool. Time after he fainted to be revived again as the torture was stayed. From the crowd came again and again the animal growl — lustful and cruel. The game was nearly over. A slash of knives and another form of medieval torture had been revived. The fire was now kicked out and the unconscious,

but still living Negro was dragged to a tree at the side of the square. As his limbs jerked and danced at the end of the rope, his body was riddled with bullets. He had found peace at last (Barnes, 1930:233-234; also cited in Mushanga, 1988:166).

INTRODUCTION

Slavery, as the final hours in the life of Tom Price attest, is definitely one of the most barbaric social institutions and practices that have ever existed in human history. In this paper I reflect on the enslavement of Africans. As well, I argue that there is a case for reparation.

The number of Africans captured and transported across the Atlantic to the Americas and to Europe, across the Indian Ocean to the Middle East and Asia, and across the Sahara desert into Arabia for enslavement, and how many died during the process and practice that lasted several centuries, will never be known. The conservative estimates of survivors from the arduous journeys into slavery suggest that between 1440 and 1860, at least 50 million Africans were transported and traded as slaves (Rogers, 1961:62). During a UNESCO conference held at Port-au-Prince in Haiti in 1978, for

some participants who wished to take into consideration factors such as losses during capture and land journey across Africa, and deaths during the sea crossing, Africa's losses during the four centuries of the Atlantic slave trade must be at some 210 million human beings (UNESCO, 1979:211).

While the volume of international trafficking in Africans for sale and enslavement will never be known with minute accuracy, a movement demanding reparation for the heinous act of trading in and enslaving Africans, has emerged and taken root. In fact, the demand is not an isolated one in recent history. The Aboriginal peoples in Canada and Australia are demanding reparation for loss of their sovereignty. Japanese Americans have demanded reparation for wrongful internment. Japan has apologized for subjecting other people to inhuman treatment, notwithstanding war situations. There is in other words, not only a case, but recent precedents for Africans and the diaspora to demand—and receive—reparation for

subjection to enslavement. In fact, Africa should not confine the demand for reparation to slave trade. Equally appropriate to include in the demand is structural-based enslavement deeply embedded in colonialism and imperialism. On acquiring territories in Africa, Europeans and their agents introduced elaborate institutional structures and machineries through which they subjected Africans to brutality with lasting effects. To-date, Africans live in misery; they have bitter memories of their past; they are looked down upon and treated by others as inferior; and they seem to have internalized an inferiority complex. Enslavement took various forms and is still perpetuated, including through scholarship, as the current debate on the *Bell Curve* attests.

Although articulated centuries after slavery was abolished, the demand for reparation is taken seriously internationally. Already, "The First Pan-African Conference on Reparation" has been held in Abuja, Nigeria, 27-29 April, 1993. The Conference was attended by delegations from 34 African, European, Caribbean, and Latin and North American countries, and others from public intergovernmental bodies such as the Organization of African Unity and the Economic Community of West African States, and from educational, training and research institutions. For concrete and concerted action, an International Committee for Reparations, and a Group of eminent persons, among them: Mr. Basharoun Abiola, former Secretary General of UNESCO, Dr. Amadou M'Bow, Professors Ali Mazrui, Ade Ajayi, and Samir Amin, and Miriam Makeba, have been set up (Ajayi and Vogt, 1993).

Predictably, the demand for reparation has generated debate. According to a Canadian daily, one historian dismisses the demand as racism based on faulty historical scholarship. Phil Curtin of John Hopkins University, also a Professor of History, questions the credibility of numbers of Africans who died during the slave trade (*The Ottawa Citizen*, 31 August, 1993). During a Roundtable Session on "Reparations for African Enslavement: Myth or Reality?" at the 37th Annual Meeting of the African Studies Association (USA), Toronto, 3-6 November, 1994, one attendant put it to the Panel that Africans were involved in slavery before the Arabs and Europeans started hunting them down and exporting them for sale. Another

argued that the enslavement of Africans followed an act of war, implying that it was the fault of the Africans to be hunted down, to be defeated, to be captured and to be enslaved, forgetting to add, as promptly reminded, that those wars were never provoked in any way and were thus not 'just wars' (although those who started the wars justified them in terms of the broader project of 'civilization'!). I will return to, and counter those discourses; for now, I want to argue and persuade, that no matter how one looks at slavery and whatever justifications enslavers put forward, slavery is wrong, and therefore there is a case for demanding—and receiving—reparation from its practitioners and beneficiaries.

SLAVERY AND SLAVE TRADE

Slavery, a social institution and condition whereby a person is involuntarily subjected to and wholly controlled for the benefit of another, is very ancient. It is widely reported in ancient literature—including in biblical texts—and was practised widely in Greek and Roman times. Slaves were domestic workers in cities in Mesopotamia and ancient Egypt; others worked in the fields and mines.

One salient feature of slavery is that slaves were normally recruited from the 'other' group, differentiated on criteria such as race, colour, language, religion or other collective attributes and identities. In other words, it was rare that people enslaved their own members; and the more distant the 'other' was, the more the mistreatment and brutality the enslaved got from the master. While slavery is ancient, the historically-specific slavery for which Africans are demanding reparations is, relatively, very recent. The available evidence suggests that Africans were first sold publicly in the market in 1441 in Lagos in Southern Portugal (Rogers, 1961:62). In fact, the Portuguese, the first Europeans to interact intensely and continuously with Africans, dominated slave trade. The main sources of Africans the Portuguese sold were Angola and Mozambique, both Portuguese colonies until 1975. The Portuguese depended so much on slave trade that when France and Holland agreed to abolish it, the former refused until they were paid 750,000 pounds on the understanding that they would confine trafficking in Africans from south of the Equator, to Portuguese colonies (Everett, 1978:148). Benefits to Portugal from

slave trade and from the labour of the colonized can be seen from the fact since Angola and Mozambique became independent in 1975, the GNP of Portugal has plummeted to the lowest in Europe.

Spain is another country that participated in slave trade, following establishment of colonies in the West Indies in 1517. With settlements on the mainland and plantations, Africans were sought the more to work on plantations as slaves. Spain, like Portugal, was reluctant to end slave trade. She had to be paid 400,000 pounds in 1817 as compensation.

The British appear in history as champions of the movement to end slave trade, ostensibly on human rights grounds.¹ Excised from that history, however, is that the motives of the British were to protect the British Indies from competition of slave-produced Cuban and Brazilian sugar and the desire to promote oil and cocoa (Everett, *ibid*, 148). In fact, other European nations considered the British “hypocritical for insisting on abolition after earlier enriching themselves from the trade, for taking no stand against slave-grown sugar or cotton... for allowing English manufactured goods steel to find their way to Africa to pay for slaves, and for attempting to establish complete command of the sea by trying to negotiate right to visit to foreign ships” (Williams, cited in Everett, *ibid*, 151).

The Arabs, their claims of innocence notwithstanding, also participated in slave trade. In fact, the Arabs started slave trade several years before the Europeans.² According to the renown Kenyan historian, Bethwell Ogot, citing Matthew, “slave trade was a constant factor on the East African coast between A.D. 100 and 1498.” An Arabic book *Adjaib Al-Hindi*, written in the latter part of the tenth century, stated that 200 slaves were exported from East Africa to Oman annually and that 1,000 ships from Oman were involved in the trade with East Africa. A Chinese writer reported in 1226 that Africans were being “enticed by offers of food and then caught and carried off from Pemba for slaves to the Ta-shi (Arab) countries where they fetch high price.”

The numbers of Africans sold into slavery in Arab countries are staggering. According to UNESCO (1979:169-170; see also 56-80), citing Ibrahim Baba Kake, “an average of 20,000 a year seems

a probable figure for the centuries during which muslims trade was at its height,” while Raymond Mauvy is cited as estimating 100,000 black slaves as taken to the muslim world in the seventh century, 200,000 in the eighth century, 400,000 in the ninth century, 100,000 in each of the tenth to the thirteenth centuries, 1 million in the fourteenth, 2 million in each of century from the fifteenth to the nineteenth inclusive, and 300,000 in the twentieth century, making altogether a total of 14 million.

The main stream of Arab slave traders came from Oman, who was the over-lord of the Sultan of Zanzibar island. Other Arab slave traders came from Arabia, Sudan and North Africa. Caravans of slave hunters would travel from the East African coast into the interior and organize raids in chosen areas. Each caravan would have two or three Arabs in charge, helped by their half-caste hangers-on, armed slaves, and porters. Often, the raids sparked and increased inter-tribal warfare. The areas raided were left in flames. Drummond narrates thus:

It was but yesterday that an explorer crossing from Lake Nyasa to Lake Tanganyika, saw the whole southern end of Tanganyika peopled with large prosperous villages. The next to follow him found not a solitary human being – nothing but burned houses and bleaching skeletons. It was but yesterday – the close of 1887– that the Arabs at the north end of Lake Nyasa, after destroying 14 villages with many of their inhabitants, pursued the populations of one village into a patch of tall dry grass, set on fire, surrounded it, and slew with the bullet and spear those who crawled out from more merciful flames (cited in Everett, *ibid* 201-202).

Slave trade from Zanzibar was officially abolished by the Hammerton Treaty of 1847. However, the trade lingered on and slavery was not abolished in the Arabian Peninsula until 1962. Mauritania, officially abolished slavery only in 1980 and was the last in the world to do so (Encyclopedia Britannica, 1992:874). It is said that there may still be some slaves in some North-West African states and in the Middle East.

Africans, wherever they were enslaved, were treated badly. Accounts from Virginia, USA, illustrate the mistreatment. Men, women and children worked from sunrise to sunset. Mounted

sentinels, armed with firearms, watched over the toiling slaves till darkness made it impossible for them to do work in the fields. Many died from sheer exhaustion, hunger or ill-treatment. The fate of slaves worsened if they tried to escape, as was the case at Richmond, Virginia, on 30 August, 1800. Following the abortive attempt to escape, 35 slaves were hanged for organizing the uprising. The leader, one Gabriel, was among those hanged. In 1822, some 9,000 slaves led by Denmark Vesey revolted; 139 of them were arrested and 37 hanged. Vesey, their leader was among those hanged. On August 1, 1831, another 100 slaves, including their leader, one Nat Turner, were hanged at Jerusalem in Southampton (*Encyclopedia Britannica*, 1992:974; King, 1968:56).

Africans enslaved in Arab countries were not treated any better. According to UNESCO (1979:171) slaves in Morocco during the reign of Sultan Mouley Archy in the 18th Century, “were put to death for the slightest mistake. The workshops were full of them, in irons, and covered in wounds.” The account continues: “But the fate of the eunuch slaves was even worse. At the end of the nineteenth century, there was still a vast establishment at Messfoua (Morocco) preparing eunuchs for the Sultan. Eight out of ten of those who were operated on (castrated) died... between 100 and 2,000 men were turned into eunuch annually at Abut Tig, a small town in Upper Egypt.”

THE CASE FOR REPARATION

The question of reparation is a very serious one. No one in Africa or elsewhere can deny that Africans were subjected to the most protracted, systematic, heinous, inhuman, and violent forms of treatment and suffering in human history. Nonetheless, there are already bitter critics of the demand for reparation. As I noted earlier, some critics say that Africans enslaved Africans before the international trafficking began. That argument, very common particularly in the USA is porous and ideological in that it is meant to obscure, conflate and confuse issues.

Africans, whether chiefs or commoners, never engaged in the business of conducting raids against each other for the purposes of capturing, trafficking in, and auctioning others as slaves. The

argument confuses and fails to distinguish between the international trafficking in slaves discussed above, and cases where men, women or children were captured in local conflicts. As well, the argument is ignorant of, or deliberately distorts context. In pre-slavery and pre-colonial Africa individuals could be banished from (or voluntarily left) the community (just as the British sent their criminals to Australia), instead of facing death for misdeeds. Children could be sent away—and not sold nor sent to strangers—during calamities such as severe famines, to minimize risks. If they stayed and married, they expanded kinship relationships, with benefits.

The kingdom of Buganda in Uganda illustrates well the point belaboured. Outsiders, including war captives, and social but repentant deviants, were socially and politically mobile to the extent that they could even acquire office on demonstrating or acquiring the skills valued in society, allegiance to clan and/or community authorities, and above all, by integrating and becoming Baganda. It is partly because of inclusiveness that Buganda was a formidable military and political force before colonial rule. The inclusiveness, accommodation, and integration of the ‘other’ noted in the specific case of Buganda contrast sharply with cases such as in the US where slave masters had even devised and had a five point manual for training Africans to be good slaves. Stampff narrates thus what may have been the norm:

First, those who managed the slaves had to maintain strict discipline. One master said, ‘Unconditional submission is the only footing upon which slavery should be placed.’ Another said, ‘The slave must know that his master is to govern absolutely and he is to obey implicitly, that he is never, for a moment, to exercise either his will or judgement in opposition to a positive order.’ Second, the masters felt that they had to implant in the bondsman a consciousness of personal inferiority. This sense of inferiority was deliberately extended to the past. The slave owners were convinced that in order to control the Negroes, the slaves ‘had to feel that African ancestry tainted them, that their colour was a badge of degradation.’ The third step in the training was to awe the slaves with a sense of the master’s enormous power. It was necessary, various owners said, ‘to make them stand in fear.’ The fourth aspect was the attempt to ‘persuade the bondsman to take an interest in the master’s enterprise and to accept his standards of good conduct.’ Thus,

the master's criteria of what was good and true and beautiful were to be accepted unquestioningly by the slaves. The final step, according to Stamp's documents, was to 'impress Negroes with their helplessness: to create in them a habit of perfect dependence upon their master's (King, 1968:39-40).

I have no disagreement with the argument that there is no way of knowing how many Africans were enslaved and/or died in the process over the centuries. Still, scholars should not shy away from making estimates, even if for purposes of making the point that there was, once in history, an evil practice whose magnitude we might never know with precision. What Professor Curtin and others who interrogate the estimates should do, as scholars, is to join the movement for reparation by researching to provide persuasive estimates. They should desist the temptation to use 'reliable' and 'empirical evidence' argument as an ideology to forestall the case for reparation. As of now, I see and would regard Curtin's pre-occupation with numbers as an intellectual fallacy and as intended to promote despondence among African leaders and their sympathizers with a view to maintaining the status quo. There are several examples in current times where countries have threatened others because one or two of their citizens were not protected or went missing, even in war or war-like situations. When do numbers, and of which people, count?

My last disagreement with Professor Curtin is the report of his in *The Ottawa Citizen* (31 August, 1993), as saying, in the context of the demand for reparation, that "the attempt to lay guilt on all whites for slavery" is "an unfortunate kind of racism turned around." I do not see the racism in blaming or condemning slave trade(rs), especially given the blatant and sordid brutality meted out against Africans. More specifically, the demand for atonement and reparations must not be seen and/or interpreted as racially-motivated. They are meant to expiate the sins, the evils and the inhumanity Africans suffered at the hands of enslavers. Slavery is a crime against humanity; it must be atoned, if not punished. Curtin's concern about laying 'guilt on all whites for slavery' is an appeal to white resistance against mounting demands for reparation for the crimes committed against the African people. All of those countries which were engaged in

and/or benefited from the sale and sweat of slaves, must face the cost of justice. To ignore and/or attempt to muzzle the voices articulating the demand for justice is to be a willing accomplice in the crime of slavery. Otherwise, I would counter-argue, to deny the reality of slavery is an unfortunate racism turned around twice, especially given the well documented systemic discrimination against Africans and/or people of African descent.

Numbers aside, suffering under slavery, as I have documented in the preceding sections, is even more problematic to measure. It is like joy. What cannot be denied is that the suffering was immense. Without provocation, Africans were subjected to the most heinous and inhuman violence and suffering. The suffering Africans endured from the time of capture to death on the way to, and when in foreign lands, is undeniable, although impossible to measure. That suffering continues to be lived by Africans and people of African descent through inferiority complex, racial-put and systemic discrimination. As well, it cannot be denied that the 500 years or so of slave-raiding and enslaving young adults from Africa, deprived the continent of its most able-bodied human resources. Slave trade contributed to eroding, retarded, and almost brought to a standstill, the capacities of Africans to develop economically, and in science and technology. Conversely, no one can deny that slave trade, and enslaving Africans (including through lasting institutional structures) contributed immensely to the development of the participating European countries and the USA.

No sooner was slave trade, abolished than it was replaced with colonization during which Africans were administratively and structurally subjected to systematic exploitation and denial of human rights.³ With colonization—and re-colonization—wanton exploitation of human and natural resources in Africa continue. Precious minerals, among them gold, diamonds, emeralds, and others such as copper, tin, iron, zinc, and uranium have been mined and exported to and for the benefit of Europe and America. Eroding the natural resources base through forced cultivation of commercial crops such as coffee, cotton, cocoa, groundnuts, simsim, cloves and others to benefit European and other countries has continued. It is for these and other forms of suffering and systemic discrimination

and exploitation of one race at the hands of another that reparation or compensation is sought and, above all, justified.

While reparation may not heal all the wounds that have been inflicted on the African personality, it is nevertheless the first step in a giant leap, and would symbolize genuine effort towards racial reconciliation for amicable interaction in the future, especially given the current globalization, as well as awareness and articulation of identities and common experiences within and across countries. All former enslavers and colonial powers have, and should, as a minimum, admit and accept moral responsibility, and proceed to pay for the goods and services they got by force and treachery from Africans.

Several questions, some purely logistical, have been raised concerning processing reparations. Who is to pay to whom how much? Fortunately, countries which traded and benefitted from slavery are well known and can be identified easily. Countries which participated in the Berlin Conference and in the subsequent dismemberment and colonization of Africa are also known and can be identified. Countries or areas from where Africans were taken and exported as slaves can also be identified. As to who is to receive reparation, that could be individual countries from which Africans were taken and enslaved. Those countries too can be identified. As for colonization, compensation could be paid to the countries which were colonized. They too are well known. In the unlikely scenario of failing to identify and/or agree on the beneficiaries of the reparations, the money could be put into an African Trust Fund from which it would be used to educate African youth and youth of African descent, and to advance science and technology through an African university, set up specifically or designated for that purpose.

CONCLUSION

There is compelling evidence all over the world to show that Africans and people of African descent have been subjected to torture and death at the hands of Europeans and Arabs. More specifically, through slave trade, Africans were traded in and Africa deprived of its valuable resource—moreover from the most

productive age category. With young adults continually exported and the old killed or denigrated, acquisition and transmission of indigenous and contextually appropriate skills and knowledge, in effect, accumulation of technology and science, were repeatedly interrupted. Hence, the scientific and technological stagnation of Africa. Backwardness in Africa is not because of anything else; it stems from slavery, colonialism and exploitation.

No sooner had slave trade been brought under control than the scramble for Africa began, following or culminating in the Berlin Conference, presided over by Prince Bismark. The entire continent was dismembered. Each European power of the time was allocated or claimed chunks of the African cake. Imperialism and colonialism ushered in another form of exploitation, now guised as 'legitimate' trade and commerce. The more the colonialists exported human and natural resources, the more Africa became poor. With historical and current exploitation of her human and natural resources, Africa has been reassured of perpetual poverty and dependence. Poverty and dependence seem to have come to stay: the more Africans toil, and the more aid they seem to receive from former and new masters, the poorer they become.

Independence, whether struggled for or given, does not seem to have made a big difference. Exploitation continues unabated. Copper, coffee, cotton, groundnuts, ivory, beef, food crops and even flowers, continue to be exported—at the cheapest prices, moreover set by cartelized consumers than by the producers. In some countries, Europeans continue to control or own the scarce land resource. In Zimbabwe, a mere 4,000 white farmers occupy 80 percent of the most fertile land. Efforts to correct that social injustice continue to be thwarted, leading to the frustrated President Mugabe to ask: 'How can those countries who have stolen land from the Red Indians, the Aboriginal and Eskimos dare to tell us what to do with our land?' (*The Globe and Mail*, 20 August, 1993:A1).

Reparation is not sought to bring about economic development or to reduce dependence but to redress wrongs—the degradation, vandalism, terrorism and other inhuman treatment Africans have experienced for thousands of years at the hands of tormentors. Nor

is the demand racially-motivated. The demand is for indemnity for the inhuman acts committed against the African people and is made in the belief that the international community will accept the reality that slave trade and later, imperialism, colonialism and exploitation are real crimes against humanity. Like every crime, if the victim keeps silent and does not lodge a complaint, there can be no investigation initiated, nor can prosecution and adjudication begin. The African people, must unite nationally and internationally, and represent their case. I am convinced that the international community will listen. It is only fair, to conclude with the words of the late Martin Luther King (1968:90), that “a society that has done something special *against* the Negro for hundreds of years must now do something special for him, in order to equip him to compete on a just and equal basis.”

BIBLIOGRAPHY

- Asuni, Tolani, in Tibamanya mwene Mushanga, (ed.) *Criminology in Africa*, UNICRI, 1992, Rome.
- Clinard, Marshall B., Daniel H. Abbott. *Crime in Developing Countries: A Comparative Perspective*, John Wiley and Sons, 1973.
- Morrow, Lance, the Scramble for Existence. *Time: The Agony of Africa*, Vol.140 No. 10, 7 September 1992.
- Mushanga, Tibamanya mwene. *Crime and Deviance: An Introduction to Criminology*. Kenya Literature Bureau, 1988, Nairobi.
- Newman, Donald J. and Patrick R. Anderson. *Introduction to Criminal Justice*, 4th edition, Randon House, Inc. 1989, New York.
- Rogers, A.J. *Africa's Gift to America*, Civil War Centennial Edition, 1961.
- Sussane Everett. *History of Slavery*, Bison Books Ltd., London, 1978.
- UNICRI: Extract from the 1988 Work Programme, Activity 3.8 "Criminology in Developing World".
- Clarke, Ramsey, *Crime in America*, Pokket Books, New York 1971.
- Clinard, Marshall B. *Sociology of Deviant Behaviour*, 3rd edition, Holt, Reinhart and Winston, Inc. 1968.
- Eitzen, D. Stanley, Maxine Baca Zinn, *Social Problems*, 6th edition, 1994, Allyn and Bacon, Boston.
- Fallers, L.A. and M.C. Fallers, "Homicide and Suicide in Busoga" in *African Homicide and Suicide*, ed. Paul Bohannan, Princeton University Press, 1960.
- Mushanga, Mwene T., "Observations on Crime in Uganda" in *Mawazo*, vol.2, No.4, December 1970.
- "A Proposal for the Establishment of Crime Institute in Uganda," Mimeograph Paper, Makerere University, 1984.
- Mushanga Tibamanya mwene, *Crime and Deviance: An Introduction to Criminology*, East African Literature Bureau, 1976.

Mushanga, Mwene T. *Criminal Homicide in Western Uganda*, M.A. Dissertation, Makerere University, 1970.

Siegel, Larry J., *Criminology*, 4th edition, 1992, West Publishing Company, St. Paul and N.Y.

Sutherland, Edwin H. And Ronald Cressey, *Criminology*, 8th edition, J.B. Lippincott Company 1970.

Wolfgang, Marvin E. *Patterns in Criminal Homicide*, Social Science edition, John Wiley and Sons, N.Y. 1958.

Clinard, M.B. and R.F. Meier. *Sociology of Deviant Behaviour*. 8th Edition. Forth Worth: Harcourt Brace Publishers, 1992.

Clinard, M.B. and D. Abbot. *Crime in Developing Countries*. New York: John Wiley and Sons. 1968.

Doornbos, M.R. *et al. Beyond Conflict in the Horn of Africa*. London: James Currey, 1992.

Edgerton, R.B. *Mau Mau: An African Crucible*. New York: Ballantine Book Edition, 1989.

Eitzen, D. and M.B. Zinn. *Social Problems*. 6th Edition. London: Allyn Bacon, 1993.

Everett, S. *History and Slave Trade*. Bison Group. 1978.

Griffiths, Ieuan LI, *The Atlas of African Affairs*, Witwatersrand University Press, 1994. Hansen, B. and M. Twaddle, eds. *Uganda Now: Between Decay and Development*. Nairobi: Heinemann. 1988.

Harden, B. *Africa: Dispatches from a Fragile Continent*. Boston: Houghton Mifflin Company. 1990.

Haskell, M.R. and L. Yablonsky. *Criminology: Crime and Criminality*. Chicago: Rand McNally College Publishing Company. 1974.

Hunt, E.F. *Social Science: An Introduction to the Study of Society*. London: McMillan. 1967.

Kanyehimba, G. "Power that rode naked through Uganda under the muzzle of the gun," in *Uganda Now: Between Decay and Development*.

H.B. Hansen and M. Twaddle, eds. Nairobi: Heinemann. 1988:70-82.

Lamb, D. *The Africans*. London: Methuen. 1985.

Malwal, Bona, "Prospects For Peace, Recovery and Development in the Horn of Africa" in *Beyond The conflict in The Horn* edited by Martin Doornbos, Lionel Cliffe, Abdel Ghaffar M. Ahmed and John Markakis, 1992, Ieues Currey Ltd., The Hague.

Mandela, Nelson, *The Long Walk to Freedom*; Little Brown and Company, 1994,

Maquet, J.J. *The Premise of Inequality in Rwanda*. London: Oxford University Press. 1961.

Museveni, Y.K. *What is Africa's Problem?* Kampala: NRM Publications. 1992.

Mushanga, T. Mwene. "Genocide and suicide in Rwanda and Burundi: A Response to Centuries of Racial Inequality." Unpublished Paper. Ottawa. 1994.

_____, ed. *Criminology in Africa*. UNCRI Publication No.47. Rome 1992.

_____. "Wife Victimization in East and Central Africa." *Victimology: An International Journal*. Vol.2, Nos.3-4. 1977-78:479-485.

_____. "Slavery and Colonial Exploitation of Africa: A Case for Reparation", December 1994, Ottawa.

_____. *Criminal Homicide in Uganda*. Nairobi: East African Literature Bureau. 1974.

_____. "Genocide and Suicide in Rwanda: A Response to Centuries of Racial Inequality", 1994.

Mulira, Eridadi Medadi, K. "The Uganda Tragedy and The Way Out", *The New Century*, vol.1, No.71, April 1984.

National Resistance Movement (NRM). *The Political Program*. Kampala: NRM Publications.

Oberg, K. "The Kingdom of Ankole in Uganda," in *African Political Systems*. M. Fortes and E.E. Evans-Pritchard. Oxford University Press. 1962.

Pakenham, T. *The Scramble for Africa: White Man's Conquest of the Dark Continent from 1876 to 1912*. New York: Avon Books. 1991.

Roger, J.A. *Africa's Gift to America*. Revised edition. New York: Civil War Centennial. 1961.

Seligman, C.G. *Races of Africa*. Oxford University Press. 1966.

Siegal, L.J. *Criminology*. 4th edition. New York: West Publishing Company. 1993.

Sutherland, E.H. and D.R. Cressey. *Criminology*. 10th edition. Philadelphia: Lippincott. 1978.

The New Vision. Vol. 9, No. 197. 9 August 1994.

Wolfgang, M.E. and F. Ferracuti. *The Sub-Culture of Violence: Towards Integrated Theory in Criminology*. London. 1967.

Wolfgang, M.E., *Patterns in Criminal Homicide*. New York: John Wiley and sons. 1958.

Bensing, Robert C. and Schroeder, Oliver. *Homicide in an Urban Community*. Springfield, IL: C.C. Thomas. 1960.

Bohannon, Paul. (Ed.) *African Homicide and Suicide*. Princeton, NJ. Princeton University Press. 1960.

Fluehr-Lobban, Carolyn. *An Analysis of Homicide in the Afro-Arab Sudan*. 1972.

Gonzalez, Carlos Fuentes. *Victimologia*. Policia Cientific 3(10)-19-23. 1965.

Mushanga, Tibamanya mwene. *Criminal Homicide in Uganda*. East African Literature Bureau. 1974.

Mushanga, Tibamanya mwene. *Homicide and Its Social Causes*, 1978. East African Literature Bureau (forthcoming).

Schafer, Stephen. *The Victim and His Criminal*. Paper submitted to the President's Commission on Law Enforcement and Administration of Justice, Washington, D.C. 1967.

Sutherland, Edwin H. and Donald R. Cressey. *Criminology*. Philadelphia: Lippincott. 1970.

Von Hentig, Hans. "Der modus operandi beim verwandtenmord (Modus operandi in homicide of relatives)." *Archiv fur Kriminologie* 139 5/6: 131-143. This study shows that one-third of homicide victims are members of the offender's family and that the most frequent victims, in descending order, are wives, male offspring, fathers, mothers, grandmothers, and sisters.

Wolfgang, Marvin E. *Patterns in Criminal Homicide*. New York: Wiley. 1958.

_____. *Studies in Homicide*. New York: Harper and Row. 1967.

Dodge, Cole P., and Magne Raundalen (eds.), *War, Violence and Children in Uganda*, 1987, Norwegian University Press, Oslo.

Hunt, Elgin, *Social Science: An Introduction to The Study of Society*, 3rd edition, 1966, The MacMillan Company, N.Y.

Information Please Almanac 1996, Houghton Mifflin Company, 1996, Boston.

Karugire, Samwiri R., *The Roots of Instability in Uganda*, New Vision Publication, 1988, Kampala.

Museveni, Yoweri, *Selected Articles on The Uganda Resistance War*, 1985, NRM Publication, Kampala.

UNESCO: *The African Slave Trade From The Fifteenth to The Ninetenth Century*, 1976, Paris.

Dodge, Cole P. and Magne Raundalen (eds.). *War, Violence and Children in Uganda*. Norwegian University Press, Oslo. 1987.

Karugire, Samwiri R. *The Roots of Instability in Uganda*. The New Vision Publishing Co. Kampala. 1988.

Lamb, D. *The Africans*. Methuen, London, 1985.

Mulira, Eridadi Medadi K. "The Uganda Tragedy and the Way Out". *The New Century*. Vol.1, No.71, April. 1984.

Museveni, Yoweri K. *What is Africa's Problem*. NRM Publications. Kampala, 1992.

Mushanga, Tibamanya mwene, *Criminology in Africa*, UNICRI, 1992, Rome.

Mushanga, Tibamanya mwene, "The Uganda We Want", 1995(a).

Mushanga, Tibamanya mwene, "The Three Main Causes of Human Misery: Tribalism, Racism and Religion". Unpublished. Ottawa, 1995(b).

_____. *I Remember From Generation to Generation*, 1995(c).

Mushanga, Tibamanya mwene "Twenty Years of Slave Violence in Uganda", (ed.) *Criminology in Africa*, UNICRI series, Publication No.47, Rome, December, 1992.

Pakenham, Thomas, *The Scramble for Africa*; Man's Conquest of the Dark Continent from 1876 to 1912; Avon Books, 1991.

Amnesty International, IA Index: AFR 47/11/94, 23 May 1994.

Doornbos, Martin R. *Not All King's Men : Inequality As A Political Instrument in Ankole, Uganda*. Mouton Publishers, The Hague, 1958.

Doornbos, Martin R. and Frederick Mwesigye, "Ebyaffe: The New Politics of King-making in Uganda", Makerere Institute of Social Research (Unpublished), 1994.

Durkheim, Emile. *Suicide*. Translated by John Spaulding and George Simpson, New York. The Free Press, 1951.

Harden, Blaine. *Africa: Dispatches from A Fragile Continent*. Houghton Mifflin Co., Boston, 1990.

Kogire, E., *Personal Communication*, at Kagango, April 1994.

Mandela, Nelson Rolihlahla, *Long Walk To Freedom*, Little, Brown and Company, 1994.

Maquet, Jacques J. *The Premise of Inequality in Rwanda*. International African Institute, OUP. London, 1961.

Mbonyimpa, Melchior, "Our Responsibility in The Rwanda Tragedy", University of Sudbury, December 1994.

Mushanga, T. Mwene. *Crime and Deviance: An Introduction to Criminology*. East African Literature Bureau, Nairobi, 1976.; 1988.

Mushanga, Tibamanya mwene, "Racial Inequality in Ankole". (Unpublished) Ottawa, 1994.

_____. "The Rwanda Social Contract", Unpublished, November 1995.

Newsweek. 2 July 1973.

Oberg, Kalvero. "*The Kingdom of Ankole*", in M. Fortes and E.E. Evans-Pritchard. *African Political System*. OUP, London, 1940.

Roscoe, John. *The Banyankole*. Cambridge University Press, London, 1973.

The Globe and Mail. (Canada) 4 May 1994; 25 August 1994, p.A7.

The New Vision. (Uganda) 9 August 1994.

The 1992 Information Please Almanac. 45th edition. Houghton Mifflin Co. Boston.

Clinard, Marshall B., *Sociology of Deviant Behaviour*. 3rd edition, 1968, Holt, Rinehard and Winston, Inc., N.Y.

Clinard, Marshall B. and Richard Quinney. *Criminal Behaviour Systems. A Typology*, 1973.

Gonzalez, Carlos F, *Victimology, Police Science* 3(10)-19-23, 1965.

Ibid.

Mushanga Musa, T. "Polygamy in Kigezi". *Uganda Journal*, 34 2(1970), pp. 201-209.

_____. *Criminal Homicide in Western Uganda*; M.A. Dissertation, 1970, Makerere University, Kampala.

See Section 188A of the Uganda Penal Code, (Law of Uganda 1965).

Seligman, C.G. *The Races of Africa*. 3rd edition, chapters 8 and 9.

Sutherland, Edwin and Donald R. Cressey. *Principles of Criminology*. 1974, 8th edition. J. B. Lippincott, Co. N.Y.

These figures were received by correspondence from the office of the Inspector-General of Police, C.I.D., Kampala.

Uganda Census, 1969.

Uganda Penal Code, Section 188A, 1968.

Verko, Veli. *Homicide and Suicide in Finland*. 1951, page 55.

Von Hentig, Hans. *Modus operandi in Homicide of Relatives*. 1967.

Voss and John R. Hepburn. "Patterns of Criminal Homicide in Chicago". *The Journal of Criminal Law, Criminology and Police Science*, Vol.59, No.4.

Wolfgang Marvin, E. *Patterns in Criminal Homicide*. Science Editions 1966, John Wiley & Sons, New York.

Wolfgang, Marvin E. and Franco Ferracuti, *The Subculture of Violence: Towards an Integrated Theory in Criminology*, 1967, Tavistock, London.

Bohannon, Paul. *African Homicide and Suicide*, 1960, Princeton University Press.

Clinard, Marshall B., Daniel J. Abbott, *Crime in Developing Countries: A Comparative Perspective*. John Wiley and Sons, 1973, New York.

Clinard, Marshall B. *Cities With Little Crime: The Case of Switzerland*; Cambridge University Press, 1978.

Mushanga, Tibamanya mwene, *Homicide and Its Social Causes*, East African Literature Bureau, 1978.

_____. Profile of Criminal Homicide, 1976, Ph.D. Dissertation, Makerere University.

Sutherland, Edwin H., and Donald R. Cressey, *Criminology*, 8th edition, 1970, J.B. Lippincott, Co., Philadelphia.

The Penal Codes of Tanzania, section 198, Kenya section 205 and Uganda 184.

The Laws of Kenya, Cap.33.

- United Nations Development Programme Report*, 1990, UN, N.Y.
- Von Hentig, Hans, *The Criminal and His Victim*, 1948. Yale University Press.
- West, D.J. *Murder Followed by Suicide*, 1965, Heinemann, London.
- Wolfgang, Marvin E. *Patterns in Criminal Homicide*, 1966, Science editions, John Wiley & Sons, Inc., New York.
- _____ (ed.) *Studies in Homicide*, 1967. Harper and Row, New York.
- Amnesty International, Report, 1986, pp 106 – 110, London
- Amnesty International, 1985, Uganda: *Evidence of Torture*, London.
- Churchill, Winston S. *My African Journey*. London 1908.
- Dodge, Cole P. and Magne Raundalen, (eds). *War, Violence and children in Uganda*. Norwegian University press, Oslo, 1987.
- Hansen, Holger Bernt and Michael Twaddle (eds). *Uganda Now: Between Decay and Development*. East African Studies, Heinemann, London and Nairobi, 1988.
- High Court of Uganda. *Criminal Session No. 17*. Kampala, 1987.
- Karugire, Samwiri R. *The Roots of Instability in Uganda*, The New Vision Printing, 1988.
- Lamb, David. *The Africans*. Methuen, London, 1985.
- Mulira, Eridadi Medadi K. "The Uganda Tragedy and the Way Out". *The new Century*. Vol.1, No.71, April 1984, p.2.
- Mushanga, Tibamanya mwene. *Crime and Deviance: An Introduction to Criminology*. 2nd edition, Kenya Literature Bureau, Nairobi, 1988,
- Patenhau, Thomas, *The Scramble for Africa : White Man's Conquest of the Dark Continent from 1876 to 1912*, 1995, Avon Books, New York.
- Republic of Uganda. *Proceedings of the Treason Trial by the Military Tribunal*. Kampala, 1977.
- The People's Struggle*. Vol.1, No.1, January 1989, Kampala.
- Fluehr-Lobban, Carolyn, "An Analysis of Homicide in the Afro-Arab Sudan", Mimeo paper, 1974.

Harworth, Alan, "Review of Alcohol-Related Problems in Zambia", Department of Psychiatry, University of Zambia, September 1977. (Mimeograph).

La Fontaine, Jean, in *African Homicide and Suicide*, by Paul Bohannon (ed.) Princeton University Press, 1960.

Mushanga, Tibamanya mwene, *Crime and Deviance: An Introduction to Criminology*, East African Literature Bureau, 1976.

Mushanga, Tibamanya mwene, *Criminal Homicide in Uganda*, East African Literature Bureau, 1974.

Mushanga, Tibamanya mwene, "The Social and Cultural Aspects of alcoholic Consumption in Some Communities of East and Central Africa and Suggestions for Its control", 1977, University of Nairobi, Unpublished; Nairobi.

Mushanga, Tibamanya mwene, "Victimisation and Victimology of Wife in Some of East and Central African Communities" in *Victimology: An International Journal*.

Pan, Lynn, *Alcohol in Colonial Africa*, The Finnish Foundation for Alcohol Studies, vol.22, Helinski, 1975.

Roscoe, John, *The Banyankore*, Cambridge University Press, 1923.

Tanner, R.E.S., *Homicide in Uganda* 1964; Scandinavia Institute of African Studies, Uppsala, 1970.

The Nairobi Times, Sunday, 6 November 1977.

Wolfgang, Marvin E., *Patterns in Criminal Homicide*, John Wiley and Sons, 1966, New York.

Wolfgang, Marvin E. and Franco Ferracuti, *The Sub-culture of Violence*, Tavistock Publications, 1967.

Andenaes, Johannes, "Does Punishment Deter Crime", in the *Criminal Law Quarterly*, vol.11, No.1, November 1963, Toronto, Canada, page 79.

Annual Report on the Administration of Prisons in Tanzania, 1965.

Barnes, Harry Elmer. *The Story of Punishment, A Record of Man's Inhumanity to Man*, 1930.

Bloch, A. and Gilbert Geis. *Man, Crime and Society*. 1964, Randon House, N.Y.

Chambliss, "William J. The Deterrent Influence of Punishment." *Crime and Delinquency*. January 1966.

Clarke, Ramsy. *Crime in America*. Pocket Books, N.Y. 1970, page 195-196. See also *The Challenge of Crime in a Free Society*. Official presidential report, 1968 - An Avon Book, N.Y.

Durant, Will. *History of Civilization*, Vol. VI.

Final Report of the National Commission on *The Causes and Prevention of Violence*. December, 1969, Washington, D.C.

Fitzgerald, P.J. *Criminal Law and Punishment*, 1962, page 217.

Gardner, Gerald, *Capital Punishment as a Deterrent and The Alternative*, 1956, Victor Gollancz. London.

Hartung, Frank E. "Trends in the Use of Capital Punishment". *The Annals of the American Academy of Political and Social Sciences*. Volume 284, November 1952.

Information Please Almanac, 1972, page 648.

Marx, Karl and F. Engels. *The Communist Manifesto*, in Parx and Engels. *Basic Writing*. Doubleday.

Schuessler, Karl E. "The Deterrent Influence of Death Penalty", *The Annals of the American Academy of Political and Social Sciences*. Volume 284, November, 1952.

Sellin, Thorsten. *Capital Punishment*, 1967, Harper and Row Publishers, N.Y.

Sellin, Thorsten in Norman Johnston, Leonard Savitz, Marvin E. Wolfgang. (Ed.) *The Sociology of Punishment and Correction*, 1962, p.78.

Siegel, Larry J. *Criminology*, 4th edition, 1992, West Publishing Company, St. Paul.

Sutherland Edwin H. and Donald R. Cressey. *Principles of Criminology*, 8th edition, J.B. Lippincott Co. Page 325.

Time, January 15, 1996.

Vold, George B. *Theoretical Criminology*. New York Oxford University Press, 1958.

Zimring, Franklin E. *Perspectives on Deterrence*. University of Chicago. September, 1969.

Asuni, Tolani. "Homicide in Western Nigeria", *British Journal of Psychiatry*, No. 115, 1969, London.

Barnes, Harry Elmer. *The Story of Punishment: A Record of Man's Inhumanity to Man*. The Stratford Company, Boston, 1930.

Gardiner, Gerald. *Capital Punishment As a Deterrent and The Alternative*: Victor Gollancz, Ltd., 1956.

Gibson, Evelyn and Klein, s. *Murder 1957 to 1968*. A Home Office Statistical Division Report on Murder in England and Wales, London; Her Majesty's Stationery Office, 1969.

Johnson, Elmer Hubert. *Crime, Correction and Society*. Revised Edition, 1968. The Dorsey Press, Homewood, Illinois.

Koestler, Arthur and Rolph, C.H. *Hanged by the Neck*. Penguin Books, 1961.

Kozol, Harry L., Houcher, Richard J., and Garofalo, Ralph E. "The Diagnosis and Treatment of Dangerousness". *Crime and Delinquency*. October, 1972.

Lambo, T. Adeoye, "Malignant Anxiety: A Syndrome Associated with Criminal Conduct in Africans". *Journal of Mental Science* (1962).

Mushanga, Tibamanya mwene. *Criminal Homicide in Uganda*. East African Literature Bureau, 1975.

Mushanga, Tibamanya mwene. *Crime and Deviance: An Introduction to Criminology*. East African Literature Bureau, 1976, Nairobi.

Mushanga, Tibamanya mwene. *Homicide and Its Social Causes*. East African Literature Bureau, 1977.

Mushanga, Tibamanya mwene, "Diversion as an Alternative to Imprisonment", Sociology. University of Nairobi, 1977.

Pollak Otto. "The Errors of Justice". *The Annals of The American Academy of Political and Social Science*. 248: 115-123, November, 1952.

Sellin, Thorsten, (ed). "Capital Punishment". Harper & Row Publishers, N.Y., 1967.

_____ *Slavery and The Penal System*, 1976, Eisevier, N.Y.

Sellin, Thorsten, (ed) "Murder and the Penalty of Death". *The American Academy of Political and Social Science*. 1952, Vol.284.

Zimasing, Franklin, E., and Hawkins, Gordon J. *Deterrence*, University of Chicago Press, 1973.

Amnesty International Documents on Death Penalty.

Clifford, William, "International Norms Affecting The Death Penalty", Lusaka, 1970.

Bohannon, Paul; (ed.) *African Homicide and Suicide*, Princeton University Press, 1960.

Fluehr-Lobban, "Criminal Homicide in The Sudan", 1972, Mimeographed paper.

Gardiner, Gerald, *Capital Punishment as a Deterrent and The Alternative*, Victor Gollancz Ltd. London, 1956.

Kenyatta, Jomo, *Facing Mount Kenya*, 1956.

Mushanga, Tibamanya mwene, "The Death Penalty and Its Alternatives", a paper presented at The Death Penalty Conference, Stockholm as Document DP 20/01/77 in December, 1977.

Mushanga, Tibamanya mwene, *Crime and Deviance: An Introduction to Criminology*, East African Literature Bureau, 1988.

Roscoe, John, *The Baganda*, London, 1965.

Roscoe, John, *The Banyankore*, London, 1923.

Sellin, Thorsten, *Capital Punishment*, Harper and Row Publishers, 1967, N.Y.

Adeyemi, Adedokun A.; "Corruption in Africa: A Case Study of Nigeria" in Tibamanya mwene Mushanga (ed.) *Criminology in Africa*, UN Publication, No.47, UNICRI, Rome, 1992.

Eitzen, D. Stanley, *Social Problems*, 1983, Allyn and Bacon, Inc. Boston.

Eitzen, D. Stanley and Maxine Baca, *Social Problems*, 6th edition, 1994.

Encyclopedia Britannica, vol. 16, 1992.

Ending Hunger: An Idea Whose Time Has Come: The Hunger Project, Praeger Social Studies, 1985, N.Y.

Griffiths, Ieuan L1. *The Atlas of African Affairs*, Routledge 1994, London.

Hunt, Elgin F. *Social Science: An Introduction to The Study of Society*, 3rd edition 1966, MacMillan Company, N.Y.

Information Please Almanac 1992.

Koestler, Arthur and C. H. Rolph, *Hanged by The Neck*, Penguin Books, 1961.

Museveni, Yoweri K., *What is Africa's Problem*, NRM Publication, 1992, Kampala.

Mushanga, Tibamanya mwene, "Education, Literacy and Progress in Africa", Unpublished, 1995.

Mushanga, Tibamanya mwene, *Crime and Deviance: An Introduction to Criminology*, 1976, East African Literature Bureau, Nairobi.

Mushanga, Tibamanya mwene, (ed) *Criminology in Africa*, UN Publication, 1992, UNICRI, Rome.

Mushanga, Tibamanya mwene, "Death Penalty and Its Alternative", a paper presented at a conference on Death Penalty at Ibadan, October 1977.

Sellin, Thorsten, *Capital Punishment*, 1967, Harper and Row, N.Y.

Sutherland, Edwin H. and Donald R. Cressey, *Criminology*, 1968.

UNDP: *Human Development Report* 1992, Oxford.

Ajayi, Ade J. F and M. O. Vogt (eds). *Proceedings of the First Pan-African Conference on Reparations*, Abuja, Nigeria, April 27-29, 1993.

Alpers, E. A. *East Africa Slave Trade*. Nairobi: East African Publishing House. 1967.

Anstery, R. T. 'Capitalism and Slavery: A Critique.' *Economic History Review*. Vol. XXI, 1968:307-320.

_____. 'The Volume and Profitability of British Slave Trade.' 1761-1807.

Barnes, H. E. *The Story of Punishment: A Record of Man's Inhumanity to Man*. Boston: The Stratford Company. 1930.

Beachey, E. W. *The Slave Trade of Eastern Africa: A Collection of Documents*. Rex Collins. 1976.

Coupland, R. *The British Anti-Slavery Movement*. London: Frank Cass & Co. Ltd. 1964.

_____. *The Slave Trade and the Scramble*. London: Faber & Faber. 1939.

_____. *East Africa and Its Invaders*. Oxford: Clarendon Press. 1938.

_____. *The Exploration of East Africa 1856-1890: The Slave Trade and the Scramble*. 2nd edition. London: Faber. 1968.

Curtin, P. D. *The Atlantic Slave Trade: A Census*. Madison: University of Wisconsin Press. 1969.

Davidson, B. *The African Slave Trade*. Atlantic-Little Brown. 1961.

Diop, C. A. *Pre-Colonial Black Africa*. Lawrence Hill & Co. 1987.

du Bois, W. E. *The Negro*. Henry Holt & Co. 1915.

Encyclopedia Britannica. "Slavery." *Micropaedia*. Vol. 10. 1985:874-875

_____. "Servitude". *Macropaedia*. 15th edition. Vol. 27. 1985:225-238.

Engerman, S. L. 'The Slave Trade and British Capital Formation in the Eighteenth Century.' *The Business History Review*. Vol. XLVI, No. 4, Winter. 1974.

Everret, S. *History of Slavery*. London: Bison Books Ltd. 1978.

Fage, J. D. *Africa Discovers Her Past*. Oxford University Press. 1970.

The Globe and Mail, 20 August 1993:A1.

Halbert, R. *Africa Since 1875*. University of Michigan Press. 1974.

Hyde, F. E. *et al.* 'The Nature and Profitability of the Liverpool Slave Trade.' *Economic History Review*. Vol. V, No. 3, 1953.

King, M. L. *Where Do We Go From Here: Chaos or Community?* Boston: Beacon Press. 1968.

Mannix, J. P. with C. Malcom. *Black Cargo*. Longman's Green & Co. Ltd. 1963.

Mushanga, T. *The Uganda We Want* (Forthcoming).

_____ "Underdevelopment in Africa South of the Sahara."

Paper presented at the Pan-African Congress, Kampala, April, 1994.

_____ "Twenty Years of Violence in Uganda," in *Criminology in Africa*. T. Mushanga, ed. Rome: UNICRI, 1992:57-81.

_____ *Crime and Deviance: An Introduction to Criminology*. Nairobi: Kenya Literature Bureau. 1988.

The Ottawa Citizen. 31 August 1993.

Pakenhama, T. *The Scramble for Africa*. Avon Books. 1991.

Pope-Hennessey, J. *The Sins of the Fathers*. Weidenfeld & Nicholson. 1967.

Rice, D. *The Rise and Fall of Black Slavery*. MacMillan. 1975.

Rogers, J. A. *Africa's Gift to America*. Civil War Centennial Edition. 1961.

Seaver, G. *David Livingstone: His Life and Letters*. Lutterworth Press. 1957.

Slade, R. *King Leopold's Congo*. London: Institute of Race Relations. 1965.

Stowes, H. B. *Uncle Tom's Cabin*. New York: Harper and Row Publishers. 1965.

Thomas, R. P. 'The Sugar Colonies of the Old Empire: Profit or Loss for Great Britain?' *Economic History Review*. Vol. XXI, April 1968.

UNESCO. *The African Slave Trade from the Fifteenth to the Nineteenth Century*. Paris: UNESCO. 1979.

Williams, E. *Capitalism and Slavery*. New York: Capricorn Books. 1944.

Professor Mushanga was born in 1930 at Kagango in West Ankole area which is now called Shema district. His father Andereya Mushanga was a great advocate of education, especially higher education. He started schooling at Rwabutura, then Kabwohe Primary School and Mbarara High School.

He trained as a medical assistant and worked for ten years at Masaka, Mulago and Mbarara hospitals before going to Makerere where he studied sociology and political science for a B.A degree. He later obtained an M.A and Ph.D. at Makerere. He also studied Criminology at the University of Wisconsin at Madison in U.S.A. He lectured at Makerere and while in exile he lectured at the University of Nairobi.

In 1986, Professor Mushanga was appointed Uganda High Commissioner to Zambia, Zimbabwe, Botswana, Lesotho, Swaziland and Canada before he was appointed Ambassador to Italy, Germany, Austria and the Vatican.

Professor Mushanga is the author of several books which include; Criminology in Africa, Crime and Deviance, An Introduction to Criminology, Criminal Homicide in Uganda, Dictionary of Criminology, Dictionary of Runyankole Rukiga, Slavery and Colonialism: two evils for which Africans should demand Reparation, Homicide and its Social Causes, My Life and Work (forth coming).

In 1998, Professor Mushanga opened Itendero Secondary School. Currently Mwene Mushanga is working as Deputy Vice Chancellor of Ankole Western University Project at Kabwohe and as Presidential Advisor (on Foreign Affairs).

Professor Mushanga is married to Maama Muko, they have children and grandchildren.

ISBN 978-9966-031-07-5



9 789966 031075

lawAfrica